

UNITED STATES OF AMERICA  
U.S. DEPARTMENT OF HOMELAND SECURITY  
**UNITED STATES COAST GUARD**

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UNITED STATES COAST GUARD  
Complainant

vs.

MURLEY DILLON  
Respondent

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Docket Number 2023-0058  
Enforcement Activity No. 7620849

**ORDER MEMORIALIZING PREHEARING CONFERENCE AND CONSENT ORDER**

**Issued: March 13, 2023**

**By Administrative Law Judge: Honorable Timothy G. Stueve**

**Appearances:**

Richard Wells  
USCG Sector New Orleans

**For the Coast Guard**

Murley Dillon, Pro Se

**For Respondent**

This matter comes before me on the United States Coast Guard's (Coast Guard) Motion for Approval of Settlement Agreement and Entry of Consent Order (Motion). On February 16, 2023, the Coast Guard issued a Complaint alleging Murley Dillon (Respondent) committed misconduct by refusing to take a drug test as described by 46 U.S.C. § 7703(1)(B). After the parties entered into a proposed Settlement Agreement, the Coast Guard filed the Motion requesting I issue a Consent Order.

On March 7, 2023, I convened a telephonic prehearing conference with the parties. Richard Wells appeared on behalf of the Coast Guard. Murley Dillon (Respondent) appeared on his own behalf. I explained to the parties that after a review of the file, I do not find the Settlement Agreement to be consistent with the cure criteria set forth in SWEENEY. Specifically, line 7 of paragraph 6 in the Coast Guard's Motion states that Respondent's Merchant Mariner Credential (MMC) will be suspended for 24 months if Respondent "fails a test or refuses to submit to a test." 46 C.F.R. § 5.569 indicates that the only appropriate sanction when a Respondent is found to be using dangerous drugs is revocation. The Coast Guard may impose a sanction of a 24-month suspension if Respondent refuses to submit to a test, but not if Respondent fails a test. I have a duty under 33 C.F.R. § 20.502 to ensure the Settlement Agreement is lawful. See The Interim Final Rule on Rules of Practice, Procedure, and Evidence for Administrative Proceedings of the Coast Guard, 64 Fed.Reg., pp. 28058-28059 (1999).<sup>1</sup> That said, I was unable approve the Settlement Agreement as it was written.

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<sup>1</sup> Section 20.502 Settlements.

Comment: One writer would like to know whether an ALJ can reject a proposed settlement, even if agreed to by the parties?

Response: Under §20.502(b) any motion for proposed settlement must include the reasons why the ALJ should accept it. The ALJ will review such a settlement for the following information:

- (1) Did the appropriate parties sign the agreement?
- (2) Does the complaint allege sufficient facts?
- (3) Does the government have jurisdiction over the respondent?

Also briefly discussed were absent signatures from the Complaint and its Certificate of Service, and an incorrect name listed on the Return of Service for the Complaint. The Coast Guard indicated they would submit a corrected Settlement Agreement, as well as a copy of the Complaint with signatures and its Return of Service with the proper name.

On or about March 10, 2023, the parties in this case submitted a revised settlement agreement and Amended Motion for Approval of Settlement Agreement and Entry of Consent Order to be approved as a settlement of the case under 33 C.F.R. § 20.502. Also submitted were a copy of the signed Complaint and a Return of Service with Respondent's name.<sup>2</sup>

I have carefully reviewed the terms of the Settlement Agreement and find it is fair and reasonable and in substantial compliance with the requirements of 33 C.F.R. § 20.502.

### **ORDER**

Upon consideration of the record, it is hereby **ORDERED**, the Settlement Agreement is **APPROVED** in full and incorporated herein by reference. This Consent Order shall constitute full, final, and complete adjudication of this proceeding.

Done and dated March 13, 2023, at  
Alameda, California



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Timothy G. Stueve  
Administrative Law Judge  
U.S. Coast Guard

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(4) Does the law permit the order?

(For example, on convictions in dangerous-drug cases, the statute mandates revocation of mariners' licenses. The parties may not agree to rehabilitation in these cases.)

(5) Is the settlement fair under the circumstances?

(6) Is the settlement clear?

<sup>2</sup> I note that the submitted Complaint's Return of Service has a digital signature with a date of March 8, 2023, but a listed date as February 16, 2023. I am considering the February 16, 2023 date to be correct.