

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

UNITED STATES COAST GUARD

Complainant

vs.

CHASE AUSTIN BUTALA,

Respondent.

Docket Number 2024-0208
Enforcement Activity Number 7881273

ADMISSION ORDER

Issued: September 16, 2024

By Administrative Law Judge: Honorable George J. Jordan

Appearances:

Eric Bauer
Investigating Officer
Suspension and Revocation National Center of Expertise
For the Coast Guard

Chase Austin Butala, *Pro se*
For the Respondent

DECISION AND ORDER

On April 9, 2024, the United States Coast Guard, Suspension and Revocation National Center of Expertise (Coast Guard) issued a Complaint against Chase Austin Butala (Respondent) alleging: (1) Respondent is a security risk, as described by 46 U.S.C. § 7703(5), and defined by 49 C.F.R. § 1572.21(d)(3) as determined by the Transportation Security Administration (TSA), and (2) having a conviction precluding the issuance of a Merchant Mariner Credential (MMC), as described in 46 U.S.C. § 7703(2). Coast Guard completed service of the Complaint on July 19, 2024.

On August 5, 2024, Respondent executed an Answer admitting all jurisdictional and factual allegations in the Complaint. Even though Respondent admitted all of the allegations he also asserted the affirmative defense that the allegations in the Complaint are time-barred under 46 C.F.R. § 5.55.¹ Appeal Decision 2689 (SHINE) (2010), aff'd, No. EM-209 (N.T.S.B.).

The Complaint in this matter is not time-barred. Coast Guard must bring basis for suspension or revocation of an MMC under 46 U.S.C. § 7703(2) and (5) within three years of commission of the act or offense. 46 C.F.R. § 5.55(a)(3). Respondent admitted that TSA deemed Respondent a security risk on November 10, 2023, and his conviction precluding the issuance of an MMC occurred on December 22, 2023. Thus, Both incidents occurred within one year of service of the Complaint in this matter. Therefore, I find the Complaint not time barred.

As a result, the following allegations in the Complaint are **ADMITTED**:

Security Risk

¹ Asserting that the Complaint is time-barred is construed as an affirmative defense because the effect of the time limitations on filing the Complaint, are the same as an affirmative defense in that Respondent could admit all allegations of wrongdoing but still be found not subject to suspension or revocation of his MMC. Affirmative defense, BLACK'S LAW DICTIONARY (12th ed. 2024).

1. On November 10, 2023, the TSA determined Respondent does not meet the security threat assessment standards described in 49 C.F.R. § 1572.5, poses an imminent security threat in accordance with 49 C.F.R. § 1572.21(d)(3), and revoked Respondent's Transportation Worker Identification (TWIC), in accordance with 49 C.F.R. § 1572.5(b).
2. Respondent is a security risk, as described by 46 U.S.C. § 7703(5).
3. Respondent's ineligibility to hold a TWIC is proof Respondent is not eligible for an MMC, in accordance with 46 C.F.R. §§ 10.101 and 10.235(h).

Conviction Precluding Issuance of an MMC

1. On December 22, 2023, Respondent was convicted of violating Montana Code Annotated § 45-5-207 – Criminal Endangerment, a felony, by the Nineteenth Judicial District Court, Lincoln County.
2. Respondent's conviction of violating Montana Code Annotated § 45-5-207, is a conviction of an offense that would prevent the issuance or renewal of an MMC, as described in 46 U.S.C. § 7703(2).

Having found all allegations in the Complaint proved by admission, I must now determine the appropriate sanction. 33 C.F.R. § 20.902(a)(2). While it is within my sole discretion to determine the appropriate sanction at the conclusion of a case. Appeal Decision 2362 (ARNOLD) (1984).

Accordingly, the Coast Guard proposes a sanction of revocation of Respondent's MMC. Respondent agreed to Coast Guard's proposed sanction in his Answer. Both admitted violations allow for sanctions of suspension or revocation with no sanction range existing in the Suggested Range of an Appropriate Order Table (Table). 46 U.S.C. § 7703(2), (5); 46 C.F.R. § 5.569 tbl. 5.569.

Assessing a maximum sanction in a given case requires a clearly articulated explanation of the aggravating factors supporting it. See Appeal Decision 2702 (CARROLL) (2013) (quoting Commandant v. Moore, NTSB Order No. EM-201 (2005)); Appeal Decision 2455 (WARDELL) (1987), aff'd, NTSB Order No. EM-149 (1988) (articulating the standard for

aggravating a sanction beyond the range in the Table). Multiple violations can warrant aggravation of a sanction. Appeal Decision 2711 (TROSCAIR) (2015). However, where violations emanate from the same course of conduct they can be considered multiplicitous and merged into a single sanction thereby effectively not aggravating. Appeal Decision 2496 (MCGRATH) (1990).

In this case both the determination that Respondent does not meet TSA's security threat assessment standards and his conviction preventing the issuance of an MMC could both stem from Respondent's conviction.² TSA's security threat assessment of Respondent occurred on November 10, 2023, and Respondent was convicted on December 22, 2023. Thus, it is likely both violations stem from Respondent's conviction. However, nothing in the record explicitly confirms this. Even so, I find both violations aggravating as either, on their own, would prevent Respondent from having an MMC. Therefore, I find Respondent's two proved violations merit revocation of his MMC.

WHEREFORE,

ORDER

IT IS HEREBY ORDERED that Respondent's violation of 46 U.S.C. § 7703(5) and 46 U.S.C. § 7703(2) is **PROVED BY ANSWER**. I have carefully reviewed the file and find that the proposed sanction is appropriate under the provisions of 46 C.F.R. § 5.569.

IT IS FURTHER ORDERED that Respondent's Merchant Mariner Credential (██████████) is **REVOKED**, commencing on the date it is deposited with the Coast Guard. Respondent shall immediately deliver all Coast Guard issued credentials, licenses, certificates, or documents, including the MMC, by mail, courier service, or in person to: Eric Bauer,

² TSA can revoke an individual's TWIC for merely being under indictment. 49 C.F.R. § 1572.103(c).

Investigating Officer, United States Coast Guard, Suspension and Revocation National Center of Expertise, 100 Forbes Drive, Martinsburg, WV, 25404. In accordance with 18 U.S.C. § 2197, if Respondent knowingly continues to use the Coast Guard issued MMC, Respondent may be subject to criminal prosecution.

PLEASE TAKE NOTICE, service of this Decision on the parties and/or parties' representative(s) serves as notice of appeal rights set forth in 33 C.F.R. §§ 20.1001 – 20.1004. (Attachment A).

Done and dated September 16, 2024,
Seattle, WA

A handwritten signature in blue ink, appearing to read "George J. Jordan", written over a horizontal line.

HON. GEORGE J. JORDAN
ADMINISTRATIVE LAW JUDGE
UNITED STATES COAST GUARD