

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

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COMPLAINANT,

vs.

Merchant Mariner's Document
No. 438 15 8061

Issued to:
NOIL M. VAUGHN
Respondent

Docket No. 01-0725
PA No. 0001592

DECISION AND ORDER

Before: Archie R. Boggs
Administrative Law Judge

PRELIMINARY STATEMENT

This proceeding is brought pursuant to the authority contained in 5 USC 551-559; 46 USC Chapter 77; 46 Code of Federal Regulations, Parts 5 and 16; and 33 CFR Parts 20 and 95.

Noil M. Vaughn was served with a Complaint dated 26 October 2001 by LTJG C. C. Culotta, U. S. Coast Guard Investigating Officer at New Orleans, LA. The Complaint alleged statutory authority as "46 USC 7703(1)(B) Misconduct, 46 USC 7703(2) Conviction preventing issuance/renewal of MMD, 46 USC 7704(b); Conviction of Dangerous Drug Law and 46 USC 7704(c)" "Use of or Addiction to the Use of Dangerous Drugs." The regulatory authority is cited as 46 CFR 5.27 Misconduct, 46 CFR 5.33 Violation of Law or Regulation and 46 CFR 5.35 Conviction of a Dangerous Drug Law.

The factual allegations read as follows:
"Factual Allegations – Misconduct (Specification 1)

The Coast Guard alleges that on September 11, 2000 at U.S. Coast Guard Regional Exam Center the Respondent:

1. Wrongfully submitted a false application for a duplicate of his Merchant Mariner's Document in that he failed to indicate that he was previously convicted of the following offenses:
 - a) June 12, 1985 Possession of contents of stolen mail
 - b) June 12, 1985 Forgery
 - c) July 12, 1985 Possession of stolen mail
 - d) April 27, 1987 Burglary/Auto
 - e) December 12, 1987 Possession of Firearm/Concealed/Felon
 - f) August 18, 1994 Attempted Possession of Heroin within 1000 feet of a school
 - g) June 29, 1999 Theft

Factual Allegations – Misconduct (Specification 2)

The Coast Guard alleges that on March 27, 2001 at U.S. Coast Guard Regional Exam Center the Respondent:

1. Wrongfully submitted a false application for a duplicate of his Merchant Mariner's Document in that he failed to indicate that he was previously convicted for the following offenses:
 - a) June 12, 1985 Possession of contents of stolen mail
 - b) June 12, 1985 Forgery
 - c) July 12, 1985 Possession of stolen mail
 - d) April 27, 1987 Burglary/Auto
 - e) December 12, 1987 Possession of Firearm/Concealed/Felon
 - f) August 18, 1994 Attempted Possession of Heroin within 1000 feet of a school
 - g) June 29, 1999 Theft

Factual Allegations – Conviction of a Dangerous Drug Law

The Coast Guard alleges that on August 18, 1994:

1. Respondent was convicted by the Criminal District Court for the Parish of Orleans in New Orleans Louisiana of attempted possession of heroin within 1000 feet of a school (Case 36-629).

Factual Allegations – Use of or Addiction to the Use of Dangerous Drugs

The Coast Guard alleges that on (sic)

1. On April 10, 2001, Respondent took a Pre-employment drug test.
2. The urine specimen was collected and analyzed by Westbank Surgical Clinic using procedures approved by the Department of Transportation.
3. That specimen subsequently tested positive for Cocaine Metabolites.

A hearing was held in this matter on 8 January 2002 at the Marine Safety Division in the Hale Boggs Federal Building, room 1314, 501 Magazine Street, Room 1314 at the Marine Safety Division.

Although Mr. Vaughn was duly notified of the date, time, and place of the hearing, he did not appear at the hearing. The matter proceeded in absentia. If the Respondent can show

within twenty (20) days that he had good cause for not making an appearance the hearing will be reopened.

In support of the Complaint the Investigating Officer introduced into evidence six (6) exhibits.

I.O. Exhibit No. 1 – an application for a merchant mariner’s document dated 11 September 2000.

I.O. Exhibit No. 2 – another application for merchant mariner’s document dated 27 March 2001.

I.O. Exhibit No. 3 - a copy of a Bill of Information filed in the Orleans Parish Criminal District Court and a conviction therein showing that the Respondent committed simple burglary of a 1976 Chevrolet Camaro belonging to Anthony Pietroniro on 27 April 1987.

I.O. Exhibit No. 4 – another Bill of Information in the Criminal District Court for the Parish of Orleans and a conviction showing that the Respondent possessed a firearm, to wit: a .380 9mm caliber semi-automatic handgun, the said Noel M. Vaughn, having been previously convicted of a felony, namely: simple burglary, in case #320-331 “A”; of the Criminal District Court of the Parish of Orleans, on 6/4/87.

I.O. Exhibit No. 5 – another Bill of Information in the Criminal District Court for the Parish of Orleans and a conviction showing the Respondent did willfully and unlawfully possess a controlled and dangerous substance, to wit: Heroin, within one-thousand feet of William J. Fischer Elementary School.

I.O. Exhibit No. 6 – On or about 15 July 1993 in the Twenty-Fourth Judicial District Court of Louisiana, in and for the Parish of Jefferson violated R.S. 14:67.10 in that he did commit a theft of goods, valued at \$100.00 to \$500.00 from J. C. Penney.

OPINION

The evidence supports all the allegations in the Complaint.

Mr. Vaughn has an extensive record of criminal offenses including theft, burglary and use of narcotics. When he twice applied for merchant mariners’ documents he indicated that he had no such record.

The Complaint is proved in its entirety

ORDER

That Merchant Mariner's Document No. 438 15 8061 and all other valid documents, licenses or certificates of service issued to you by the United States Coast Guard, or any predecessor authority, now held by you, be and the same are hereby REVOKED; and upon service of this order upon you, you are hereby ordered to forthwith deliver and surrender your document, license and certificates of service to the nearest United States Coast Guard Marine Safety Office. If you knowingly continue to use your document, you may be subject to criminal prosecution.



ARCHIE R. BOGGS
ADMINISTRATIVE LAW JUDGE

Dated 05 February 2002
New Orleans, Louisiana