

OFFICE OF ADJUDICATIONS

IN THE MATTER OF

**: BOATING DIVISION/
SUSPENSION OF BOATING
CERTIFICATE
Ref. #05-007**

GARY L. VERONICK

: SEPTEMBER 7, 2005

FINAL DECISION

BACKGROUND

A hearing was held on August 31, 2005 at the Department of Environmental Protection Marine Headquarters in Old Lyme regarding the suspension of the Safe Boating Certificate/Certificate of Personal Watercraft Operation of the respondent Gary L. Veronick. General Statutes §15-140q. The following persons were heard: Mr. Veronick, Timothy R. Cummings, Esq., Otto Miller, Officer Derek Robertson and Eleanor Mariani of the DEP Boating Division. Also present was Kathryn Keenan of the DEP Boating Division.

The respondent was arrested on July 3, 2005 for operating a boat under the influence (BUI); the suspension of his boating certificate was effective August 8, 2005 for a period of 90 days. The request for this hearing was untimely; statutory time limitations were waived.

The sole issue in this appeal is whether Mr. Veronick was operating his vessel, one of four factors that must be found to conclude that there was probable cause to suspend Mr. Veronick's boating certificate. §15-140q.

FINDINGS

During the evening of July 3, 2005, Mr. Veronick and two other men, Otto Miller and Joseph Messier, decided to take his boat from Shaffer's Marina in Mystic for a pleasure trip up the Mystic River. Since Mr. Veronick was intoxicated, he asked Mr. Miller to take the wheel of the boat. Mr. Veronick sat next to Mr. Miller at the helm. Mr. Miller remained at the wheel of the boat; Mr. Veronick operated the GPS navigation system and the water depth finder throughout the trip.

There was testimony introduced at the hearing that Mr. Veronick did not believe he was operating his boat. However, §15-127 of the General Statutes defines "operate" for the purposes of §15-140q as "to navigate or otherwise use a vessel". It is uncontested that Mr. Veronick was intoxicated when he controlled his boat's GPS navigation system and water depth finder on the trip up the Mystic River the evening of July 3, 2005. It was

confirmed by testimony during the hearing that using the GPS system was necessary to navigate and keep the boat on course during the evening trip. In addition, monitoring the water depth finder maintained that course within waters that were deep enough to allow safe passage.

Mr. Veronick appears to be a responsible boater; however, even if he was not behind the steering wheel of his boat, he was navigating that boat in an intoxicated condition on the evening of July 3, 2005. Navigation is clearly considered an essential function for a boat's safe transit, as indicated by its inclusion in the statutory definition of "operation". At the time of his arrest, Mr. Veronick was therefore operating his boat as that term is defined in §15-127 for the purposes of §15-140q.

CONCLUSION AND ORDER

There was probable cause to suspend Mr. Veronick's boating certificate under the provisions of General Statutes §15-140q. This suspension, effective August 8, 2005, is therefore affirmed. §15-140q(f). The Commissioner of Environmental Protection hereby suspends the boating certificate of Gary L. Veronick for *90 days*, effective from *August 8, 2005 to November 5, 2005*.

If he has not already done so, Mr. Veronick is directed to immediately surrender his boating certificate to the Department of Environmental Protection, State Boating Law Administrator, 333 Ferry Road, P.O. Box 280, Old Lyme, CT.

Entered as a final order of the Commissioner of Environmental Protection by:

9/7/05
Date

/s/ Janice B. Deshais
Janice B. Deshais, Hearing Officer

PARTY LIST

Final Decision in the matter of GARY VERONICK
(Suspension of Boating Certificate)

PARTY

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