



David E. Pierce
Acting Director

Commonwealth of Massachusetts

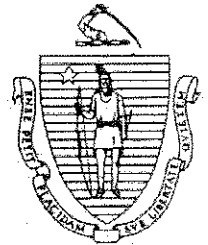
Division of Marine Fisheries

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Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Ronald Amidon
Commissioner

Mary-Lee King
Deputy Commissioner

Derek P. Ashcroft
23 Lawrence Street, Apt. #2
Taunton, MA 0278
and
713 Spring Street
Dighton, MA 02764

Re: *Matter of Ashcroft*, Docket No. BP-167437-MC-17
FINAL AGENCY DECISION

Dear Mr. Ashcroft:

Upon a thorough review of the administrative record, it is my decision to adopt in its entirety the attached Recommended Final Decision of the Magistrate as my **FINAL DECISION** in this case.

Therefore, boat permit DMF ID No.167437 with regulated fishery special permit endorsement for commercial striped bass, and recreational saltwater fishing permit DMF ID No. 1012641 are hereby suspended for a period of three years (2018-2020). You may not apply for, hold or otherwise be issued any permit, authorization or regulated fishery permit endorsement for the striped bass fishery, recreational or commercial. Any such permit, authorization, or regulated fishery special permit endorsement for the striped bass fishery, recreational or commercial, that may inadvertently or mistakenly be issued to you shall be null and void.

You have the right to seek judicial review of my decision in the Superior Court pursuant to G.L. c. 30A, §14(1). The complaint must be filed in Superior Court within thirty days of receipt of this decision.

Regards,

David E. Pierce, PhD
Director

Recommended Final Decision
Docket Sheet

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF FISH AND GAME
DIVISION OF MARINE FISHERIES

SUFFOLK, SS.

ADJUDICATORY PROCEEDING
DOCKET NO. BP-167437-MC-17

IN THE MATTER OF:

DEREK P. ASHCROFT, COMMERCIAL)
BOAT PERMIT DMF ID NO.167437 WITH)
REGULATED FISHERY PERMIT)
ENDORSEMENT FOR STRIPED BASS)
and RECREATIONAL FISHING PERMIT)
DMF ID No.1012641,)
Respondent)

RECOMMENDED FINAL DECISION

I. BACKGROUND

This case was initiated by Environmental Police Officer Michael Cole (“claimant”) by filing with the Division of Marine Fisheries (“agency”) a Notice of Claim for Adjudicatory Proceeding.

An Order on Respondent’s Right to Request a Hearing was sent by UPS 2nd day mail with proof of delivery to respondent Derek Ashcroft at 23 Lawrence Street, Apt. #2, Taunton, MA 02780, and at 713 Spring Street, Dighton, MA 02764

Claimant’s motion sets forth the following: (1) respondent has not exercised his right to a hearing in a timely fashion; (2) respondent has not filed an appearance or an answer nor has a representative of the respondent so filed; (3) respondent has not been in contact with claimant specifically or the Massachusetts Environmental Police, Coastal Bureau in general; (4) that claimant has filed evidence sufficient to support judgment in his favor; and (5) a copy of the motion for judgment on the pleadings was delivered to respondent by USPS priority mail.¹

The respondent has filed no reply motion or other pleading in response to claimant’s motion. It has been over thirty days since the claimant’s motion was delivered to respondent’s two addresses of record.

¹ See docket sheet, *Matter of Ashcroft*, No. BP-167437-MC-17 (2017)

II. DISCUSSION

By motion dated November 20, 2017, claimant requests that this case be decided on the pleadings in this case to date and the present administrative record. The basis for claimant's motion is, in effect, that respondent has not engaged in this proceeding or indicated any intention to defend, challenge, or dispute the allegations set forth in claimant's Notice of Claim for Adjudicatory Proceeding.

Claimant certified that a copy of his motion was delivered to respondent by USPS priority mail with tracking. The respondent has not filed a responsive or cross motion. In addition, respondent has not filed an answer or an appearance, nor has an attorney or representative for the respondent filed an appearance or any pleadings. By any appearance respondent has shown no intention of engaging in this proceeding.

Adjudicatory Proceedings are governed by the Standard Rules of Adjudicatory Practice and Procedure, 801 CMR §1.00, et. sq. The rules provide authority to dispose of a proceeding in summary fashion by motion of any party. 801 CMR §1.01(7)(a)(1). As in civil courts, such motions would include summary judgments, judgment on the pleadings and default judgments. *Pepin v. Division of Fisheries & Wildlife*, 467 Mass. 210 (2014).

III. CONCLUSION

Claimant's motion for judgment is hereby allowed. The agency Administrative Law Clerk is directed to enter judgment for the claimant on the docket sheet.

IV. RECOMMENDATION

I recommend that the Director adopt my Recommended Final Decision as his Final Decision in this matter.

Dated: 01/02/18

By DC HOOPER
David C. Hoover, Esq.
Administrative Law Magistrate
Department of Fish and Game