

**STATE OF FLORIDA  
FISH AND WILDLIFE CONSERVATION COMMISSION**

**JEFFREY DAVID WILENSKI,**

**Petitioner,**

v.

**DOAH Case No. 21-2377  
FWC Case No. 21-0072**

**FLORIDA FISH AND WILDLIFE  
CONSERVATION COMMISSION,**

**Respondent.**

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**FINAL ORDER**

THIS CAUSE came before the Florida Fish and Wildlife Conservation Commission (Commission) on a Petition for a formal administrative hearing (Petition) filed by Jeffery David Wilenski (Petitioner or Wilenski). The Petition challenged the Commission's determination that Petitioner was responsible for a vessel deemed derelict and abandoned.

**STATEMENT OF THE ISSUE**

WHEREAS Wilenski received notification from the Commission on July 17, 2021, that that he was responsible for a vessel deemed derelict and abandoned on the waters of the State of Florida. Petitioner disputed the agency action. The letter further stated that law enforcement officers employed by Respondent had determined that Petitioner's vessel was derelict, as defined in section 823.11, and would be removed and disposed of, pursuant to Chapter 705, Florida Statutes, if the vessel was not removed within five days. Petitioner filed a timely petition challenging the action.

The matter was referred to the Division of Administrative Hearings (DOAH). The final hearing initially was set for September 9, 2021. On September 2, 2021, the parties filed an Agreed/Joint Motion for Continuance, requesting that the hearing be continued due to Petitioner

having contracted COVID-19. The hearing was continued and rescheduled for November 9, 2021. The hearing was held on as scheduled. After the hearing the parties filed proposed recommended orders, and both were considered in preparing the Recommended Order. On December 7, 2021, the hearing officer issued the Recommended Order finding for the Petitioner. The administrative law judge concluded that the vessel was not derelict and recommended that the agency enter a final order in favor of the Petitioner holding that is not derelict.

### **CONCLUSIONS OF LAW**

Upon review of the record, the Commission makes the following legal conclusion:

As Executive Director of the Commission or his designee, the undersigned has jurisdiction over this subject matter and authority to enter a final order pursuant to Rule 68-1.009, Florida Administrative Code, and the Commission's Delegation of Authority, dated October 2020, and in accordance with Section 120.57(2), Florida Statutes.

### **ORDER**

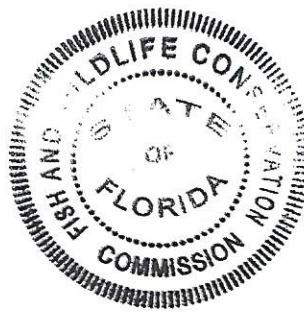
**WHEREFORE**, the Administrative Law Judge's Recommended Order is adopted, finding that the vessel at issue in this proceeding is not a derelict vessel under section 823.11 and that, as such, Respondent is not authorized to relocate, remove, store, or dispose of the vessel, as provided in sections 823.11 and 376.15 and this matter is closed.

**DONE AND ORDERED** in Tallahassee, Florida this 18th day of January, 2022.

**Thomas H. Eason** Digitally signed by Thomas H. Eason  
Date: 2022.01.18 08:00:49 -05'00'

Thomas H. Eason, Ph.D.  
Assistant Executive Director  
Florida Fish and Wildlife Conservation  
Commission

Filed with the Commission  
This 18<sup>th</sup> day of January, 2022  
ATTEST: [Signature]  
Rebecca Bone, Deputy Clerk



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above Final Order has been furnished by US mail to: Jeffrey David Wilenski, 400 Whitehead Street, Unit 4463, Key West, Florida 33040; and to Brandy E. Elliott, Assistant General Counsel, Florida Fish and Wildlife Conservation Commission, at [brandy.elliott@myfwc.com](mailto:brandy.elliott@myfwc.com); on this 18<sup>th</sup> day of January, 2022.

[Signature], Deputy Clerk  
Florida Fish and Wildlife Conservation  
Commission  
620 South Meridian Street  
Tallahassee, Florida 32399  
(850) 487-1764



### **NOTICE OF APPELLATE RIGHTS**

The foregoing constitutes final agency action in this matter. Any party adversely affected has the right to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rules 9.030(b)(1)(C) and 9.110, Florida Rules of Appellate Procedure. To initiate an appeal, a Notice of Appeal must be filed with the Florida Fish and Wildlife Conservation Commission, Legal Office, and the appropriate District Court of Appeal within thirty (30) days for the date this Final Order is filed with the Agency Clerk. The Notice filed with the District Court of Appeal must be accompanied by the appropriate fee required by law.