

**UNITED STATES OF AMERICA
DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD**

UNITED STATES COAST GUARD,)	
Complainant,)	
)	Docket Number: 2023-0119
vs.)	
)	CG Enforcement Activity ID: 7642847
KEITH LAMONT WATERMAN,)	
Respondent.)	

DEFAULT ORDER

Issued: January 11, 2024

By Order of Chief Administrative Law Judge: Hon. Walter J. Brudzinski

Appearances:

For the Coast Guard

LT John Crow
LT Alex Gagne
USCG Sector Virginia

For the Respondent

Keith Lamont Waterman, *Pro se*

ORDER GRANTING COAST GUARD'S MOTION FOR DEFAULT ORDER

On or about June 19, 2023, the United States Coast Guard Sector Virginia (Coast Guard) issued a Complaint seeking to revoke Keith Lamont Waterman's (Respondent) Merchant Mariner Credential (MMC or credential) for violating a law or regulation under 46 U.S.C. 7703(1)(A) and 46 C.F.R. 5.33, and for two counts of misconduct under 46 U.S.C. 7703(1)(B) and 46 C.F.R. 5.27. Specifically, the Coast Guard alleges on February 7, 2023, Respondent was under the influence of alcohol while serving as a crewmember aboard the USNS MERCY. The Complaint states Respondent underwent three reasonable cause chemical tests, which all exceeded the 0.04 blood alcohol concentration (BAC) limit.

The Coast Guard filed its Return of Service for Complaint on June 20, 2023, indicating it served a copy of said Complaint to Respondent at his residence by express courier. A person of suitable age and discretion residing at that residence signed for the document on June 19, 2023. As set forth in the Complaint, Respondent's Answer is due within 20 days of receipt in accordance with 33 C.F.R. § 20.308. Respondent's Answer was due no later than July 10, 2023, because July 9, 2023 was a Sunday.

Because Respondent has neither filed an Answer nor requested an extension of time to file an Answer, the Coast Guard filed its Motion for Default Order (Default Motion) on August 30, 2023, requesting the Administrative Law Judge (ALJ) issue a Default Order against Respondent imposing the sanction asked for in the Complaint. The Coast Guard subsequently filed a Return of Service for the Default Motion showing it sent a copy of said Default Motion to Respondent at his residence by express courier. The Return of Service indicates Respondent refused to accept delivery. The FedEx proof of service shows that the package was delivered to

Respondent's residence on September 1, 2023, but it was not signed for because signature was "not required."

I note service of a Default Motion is complete when it is delivered to the person's residence **and** (*emphasis added*) signed for by a person of suitable age and discretion residing at the individual's address. 33 C.F.R. § 20.304(g)(3). As such, not requiring a signature would render service of the Motion for Default incomplete. In Respondent's case, however, service was complete pursuant to 33 C.F.R. § 20.304(h) because Respondent refused to accept delivery of the motion. Furthermore, Respondent contacted the Coast Guard after its service of the motion, which indicates he received a copy of same.

Title 33 C.F.R. § 20.310 provides "the respondent alleged to be in default shall file a reply to the motion 20 days or less after service of the motion." Respondent's reply was due no later than September 21, 2023. To date, Respondent has not filed his reply.

On January 4, 2024, the ALJ Docketing Center assigned this matter to me for review and adjudication. I have carefully reviewed this file, and I find the applicable provisions of 33 C.F.R. §§ 20.310 and 20.304(d) and (h) have been complied with and Respondent is in **DEFAULT**. Under 33 C.F.R. § 20.310(c) a default constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing.

Accordingly, I find the violations alleged in the Complaint are **PROVED**. I have carefully reviewed the Complaint and the Default Motion and further find the proposed sanction of revocation is appropriate under the provisions of 46 C.F.R. § 5.569.

SANCTION

IT IS HEREBY ORDERED that Respondent KEITH LAMONT WATERMAN's Merchant Mariner Credential is **REVOKED**.

IT IS FURTHER ORDERED that Respondent immediately surrender his credential to the Investigating Officer at the United States Coast Guard Sector Virginia, 200 Granby Street, Suite 700, Norfolk, VA 23510. If Respondent knowingly continues to use his credential, he may be subject to criminal prosecution.

PLEASE TAKE NOTICE that under 33 C.F.R. § 20.310(e), for good cause shown, an Administrative Law Judge may set aside this finding of Default. Respondent may file a motion to set aside the finding with the ALJ Docketing Center, Baltimore, MD.

PLEASE TAKE FURTHER NOTICE that service of this Order upon Respondent serves to notify Respondent of his right to appeal as set forth in 33 C.F.R. §§ 20.1001 – 20.1004. (Attachment A).

Done and dated January 11, 2024
New York, NY



HON. WALTER J. BRUDZINSKI
CHIEF ADMINISTRATIVE LAW JUDGE
UNITED STATES COAST GUARD