

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

UNITED STATES COAST GUARD

Complainant

vs.

ROBERT GEORGE WILTZ

Respondent

**Docket Number: 2023-0134
MISLE ID: 7383093**

DEFAULT ORDER

This matter comes before me on the United States Coast Guard's (Coast Guard) Motion for Default Order (Motion). As of the date of this order, Robert George Wiltz (Respondent) has not responded to the Complaint or the Motion. Upon review of the record and pertinent authority, the Coast Guard's Motion is **GRANTED**.

I. BACKGROUND

On April 5, 2023, the Coast Guard filed a Complaint against Respondent, seeking revocation of his merchant mariner credential (MMC), pursuant to 46 U.S.C. § 7701, *et seq.* The Coast Guard asserted two charges in the Complaint. The first charge alleges Respondent is a security risk, as described by 46 U.S.C. § 7703(5); the second charge alleges Respondent has been convicted of an offense that would prevent the issuance or renewal of an MMC, as described by 46 § 7703(2). The Return of Service filed by the Coast Guard shows the Complaint was delivered to Respondent at his residence on April 7, 2023. On May 4, 2023, the Coast Guard filed its Motion, contending Respondent failed to file an answer and the response time had

passed. See 33 C.F.R. § 20.308. The Return of Service for the Motion shows it was delivered to a person of suitable age at Respondent's residence on May 5, 2023. The Chief Administrative Law Judge assigned the matter to me on June 7, 2023.

II. DISCUSSION

The applicable regulations require a respondent to "file a written answer to the complaint 20 days or less after service of the complaint." 33 C.F.R. § 20.308(a). An administrative law judge (ALJ) may find a respondent in default "upon failure to file a timely answer to the complaint or, after motion, upon failure to appear at a conference or hearing without good cause shown." 33 C.F.R. § 20.310(a). Default constitutes an admission of all facts alleged in a complaint and a waiver of respondent's right to a hearing on those facts. 33 C.F.R. § 20.310(c). See Appeal Decision 2682 (REEVES) (2008).

The Coast Guard properly served the Complaint on Respondent. Contained within the Complaint are instructions that clearly stated, "YOU MUST RESPOND TO THIS COMPLAINT WITHIN 20 DAYS" and provided the applicable regulatory provision, 33 C.F.R. § 20.308. The instructions also informed Respondent an extension of time could be requested "within 20 days" of receipt of the Complaint. Respondent failed to file an answer and has made no attempt to provide good cause for not doing so. Similarly, the Coast Guard properly served the Motion on Respondent and Respondent failed to file a response. 33 C.F.R. § 20.310(b) ("[t]he respondent alleged to be in default shall file a reply to the motion 20 days or less after service of the motion."). Accordingly, I find Respondent in default, and his failure to file an answer constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. 33 C.F.R. § 20.310(c).

Regarding the substance of the alleged violations, I find the facts alleged are sufficient to prove violations of 46 U.S.C. §§ 7703(2) and 7703(5). As to the charge under 46 U.S.C. §

7703(5), on December 7, 2021, the Transportation Security Administration (TSA) determined Respondent does not meet the security threat assessment standards described in 49 C.F.R. § 1572.5, and revoked Respondent's Transportation Worker Identification Credential (TWIC). Pursuant to 46 C.F.R. §§ 10.235(h) and 10.101(c), TSA's determination to revoke an individual's TWIC is not subject to review and is to be treated as proof that the mariner is not eligible for an MMC. Therefore, the regulations require a finding that Respondent poses a security risk under 46 U.S.C. § 7703(5).

As to the charge under 46 U.S.C. § 7703(2), the Coast Guard determines whether to grant or renew an MMC through an assessment of the individual's safety and suitability, including a criminal record review. 46 C.F.R. §§ 10.107 and 10.211. On October 4, 2022, the Circuit Court of the State of Oregon, Multnomah County, convicted Respondent of Assault in the Fourth Degree, a misdemeanor, under Oregon Revised Statute § 163.160. The criminal conviction is the type that would prevent the issuance or renewal of an MMC. See 46 C.F.R. § 10.211 at Table 1. Accordingly, both charges are **PROVED**.

Based on these findings, I also find the facts alleged in the Complaint sufficient to warrant the sanction of **REVOCATION**.

WHEREFORE,

ORDER

IT IS HEREBY ORDERED, the Coast Guard's Motion for Default Order is **GRANTED**.

IT IS FURTHER ORDERED, in accordance with 33 C.F.R. § 20.310, I find the charges alleged in the Complaint are **PROVED**.

IT IS FURTHER ORDERED, Respondent's MMC and all other Coast Guard-issued credentials are **REVOKED**.

IT IS FURTHER ORDERED, Respondent shall immediately deliver the MMC and all other Coast Guard-issued credentials by mail, courier service, or in-person to: Mr. Eric Bauer, Suspension & Revocation National Center of Expertise, 100 Forbes Drive, Martinsburg, WV 25404. If Respondent knowingly continues to use the MMC, or other Coast Guard-issued credentials, Respondent may be subject to criminal prosecution. See 18 U.S.C. § 2197.

IT IS FURTHER ORDERED, pursuant to 33 C.F.R. § 20.310(e), for good cause shown, an ALJ may set aside a finding of default. A motion to set aside a finding of default may be filed with the ALJ Docketing Center. The motion may be sent to the U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21202-4022.

PLEASE TAKE NOTICE, service of this Default Order on the parties serves as notice of the appeal rights set forth in 33 C.F.R. § 20.1001-20.1004 (**Attachment A**).

Done and dated July 14, 2023
Baltimore, Maryland

A handwritten signature in black ink, appearing to read "Lineka N. Quijano", with a long, sweeping flourish extending to the right.

**HON. LINEKA N. QUIJANO
UNITED STATES COAST GUARD
ADMINISTRATIVE LAW JUDGE**