

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

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UNITED STATES COAST GUARD,  
Complainant,

vs.

CHRISTOPHER G. TRONQUET  
Respondent.

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Docket Number 2023-0173  
Enforcement Activity No. 7677976

**ORDER GRANTING IN PART AND DENYING IN PART COAST GUARD MOTION  
FOR SUMMARY DECISION**

**Preliminary Statement**

The United States Coast Guard (Coast Guard) initiated this administrative action seeking revocation of Christopher Tronquet's (Respondent) Merchant Mariner Credential (MMC)

██████████. On May 9, 2023, the Coast Guard issued a Complaint and Affidavit – Temporary Suspension charging Respondent with two (2) counts of Conviction to Preclude Issuance, in violation of 46 U.S.C. 7702(d)(1)(B)(ii) and 7703(2). Specifically, the Coast Guard alleges Respondent was convicted of possession of a firearm by a prohibited person (felon) and possession of an unregistered firearm (silencer). As this matter is an expedited proceeding which resulted from the Coast Guard temporarily suspending Respondent's MMC, I held a pre-hearing conference call to take Respondent's Answer. See 33 C.F.R. §§ 20.1201-20.1209. Respondent admitted to the jurisdiction allegations, but asserted he did not have sufficient information to admit or deny the factual allegations. I set a hearing in this matter to be held on June 1, 2023, in Pensacola Florida.

On May 18, 2023, the Coast Guard filed an Amended Complaint and Affidavit – Temporary Suspension (Amended Complaint). In the Amended Complaint, the Coast Guard added a third factual allegation, asserting Respondent is a security risk, in violation of 46 U.S.C. 7703(5). Specifically, the Coast Guard alleges Respondent is a security risk and is not eligible to hold an MMC, because his Transportation Worker Identification Credential (TWIC) was revoked by the Transportation Security Administration (TSA). I held a second pre-hearing conference call to allow Respondent to answer the Amended Complaint. Respondent admitted TSA did revoke his TWIC and he is a security risk as described by 46 U.S.C. § 7703(5), however he denied that was ineligible to hold a MMC because his TWIC was revoked.

On May 18, 2023, the Coast Guard filed a Motion for Summary Decision (Motion) pursuant to 33 C.F.R. § 20.901(a). In the Motion, the Coast Guard argues they are entitled to a decision with regards to the factual and jurisdictional allegations set forth. Respondent did not file a reply brief.

#### **Motion for Summary Decision – Standard of Review**

Pursuant to 33 C.F.R. § 20.901(a), a party may request summary decision on the basis that there is no genuine issue of material fact and the party is entitled to a decision as a matter of law. The ALJ may grant the motion if the affidavits filed with the motion, other filed documents, material obtained by discovery or otherwise, or matters officially noted, show there is no genuine issue of material fact and that a party is entitled to a summary decision as a matter of law. 33 C.F.R. § 20.901(b). A party defending against a motion for summary decision cannot rest upon the mere allegations or denials of fact contained in his/her own pleadings to show the existence of a genuine dispute of material fact. 33 C.F.R. § 20.901(c). A dispute over a material

fact is “genuine” if the evidence is such that a reasonable fact finder could render a ruling in favor of the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

### **Undisputed Facts**

I find no genuine dispute as to the following facts:

1. At all relevant times, Respondent was the holder of MMC Number [REDACTED] (Resp’t Answer; CG MSD Ex. 4).<sup>1</sup>
2. On September 12, 2022, TSA issued Respondent a Preliminary Determination of Ineligibility (PDI), stating Respondent may no longer be eligible to hold his TWIC because of conviction of “Felon in Possession of a Firearm, and Receipt of Possession of an Unregistered Firearm, in Mobile, Alabama, on or about August 26, 2022.” (CG MSD Ex. 5).
3. On November 11, 2022, TSA’s PDI became final and Respondent’s TWIC was cancelled. (Resp’t Answer to Amended Complaint; CG MSD Ex. 3).

### **Discussion**

The Coast Guard moves the undersigned for a Summary Decision and Order finding proved the jurisdiction and factual allegations stated in the Complaint. With regard to the first two charges, the Coast Guard seeks partial summary decision finding there are no genuine issues of material fact demonstrated by the record of Respondent’s convictions and the National Maritime Center (NMC) Safety and Suitability Evaluation Branch (SSEB) determination as to whether his conviction would preclude issuance of an MMC. With respect to the third charge in the Complaint, the Coast Guard seeks summary decision as to the factual allegations and to the proposed order of revocation. The Coast Guard argues Respondent’s ineligibility to hold a TWIC makes him ineligible for an MMC, which requires revocation.

With respect to the first two charges, questions could remain as to whether Respondent’s conviction should be considered a conviction precluding the issuance or renewal of an MMC.

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<sup>1</sup> In their Motion for Summary Decision, the Coast Guard submitted five exhibits. These exhibits will be labeled as CG MSD Ex. 1, CG MSD Ex. 2, etc.

NMC SSEB's determination does state Respondent's convictions would prevent the issuance or renewal of an MMC. However, as these are expedited proceedings, Respondent has not been afforded the standard time to conduct discovery as these proceedings were fast tracked to hearing. Respondent should be provided the opportunity to cross examine, or otherwise confront, the Coast Guard as to their determination that his convictions would preclude the issuance or renewal of an MMC. Therefore, I **DENY** the Coast Guard's request for summary decision regarding the first two factual allegations.

With respect to the third factual allegation, the evidence shows Respondent's TWIC was revoked on November 11, 2022. (CG MSD Ex. 3, 5). In addition, during the second pre-hearing, Respondent provided his verbal Answer to the Amended Complaint and admitted TSA did revoke his TWIC and he is a security risk as described by 46 U.S.C. § 7703(5). In his Answer, Respondent asserts he can maintain a MMC even if his TWIC was revoked. However, a mariner whose TWIC has been revoked, for a reason other than administrative reasons, will be deemed ineligible to hold an MMC. See 46 C.F.R. § 10.235(i).

With the issuance of the PDI on the September 12, 2022, which became a final determination on November 11, 2022, TSA determined Respondent was convicted of a disqualifying criminal offenses, under 49 C.F.R. § 1572.103, that warranted revocation of his TWIC. If the Coast Guard is advised by TSA that a mariner's TWIC was revoked, the Coast Guard may initiate a suspension and revocation proceeding against the mariner's MMC. 46 C.F.R. § 10.235(h). TSA's determination that an individual is not eligible to hold a TWIC is not subject to review and it must be treated as proof the mariner is not eligible to hold an MMC. Id.

Considering the evidence presented by the Coast Guard in its Motion, I find there is no genuine dispute as to the material facts of this case as to the third Charge. At all relevant times,

Respondent was the holder of an MMC and, as of November 11, 2022, TSA revoked Respondent's TWIC upon a determination that Respondent poses a security risk. Therefore, as a matter of law, Respondent is not eligible to hold an MMC.

**WHEREFORE,**

**ORDER**

**IT IS HEREBY ORDERED**, the Coast Guard's Motion for Summary Decision is **DENIED IN PART**. The first two Factual Allegations of the Complaint, are found **NOT PROVED** via the Motion for Summary Decision.

**IT IS FURTHER ORDERED**, the Coast Guard's Motion for Summary Decision is **GRANTED IN PART**. The third Factual Allegations of the Complaint, brought pursuant to 46 U.S.C. § 7703(5) and 46 C.F.R. §§ 10.235(h), is **PROVEN**.

**IT IS FURTHER ORDERED**, the Merchant Mariner Credential and all other Coast Guard licenses, certificates, and documents issued to Respondent are **REVOKED** as Respondent's ineligibility to hold a TWIC is proof he is not eligible for an MMC.

**IT IS FURTHER ORDERED**, that these proceedings shall continue to hearing on June 1, 2023, in Pensacola, Florida, in order to make a determination as to the first two Factual Allegations.

Done and dated May 30, 2023  
New Orleans, Louisiana



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Hon. Brian J. Curley  
Administrative Law Judge  
United States Coast Guard.