

**UNITED STATES OF AMERICA
U.S. DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD**

UNITED STATES COAST GUARD
Complainant

vs.

JOHN WILLIAM POWELL
Respondent

Docket Number 2023-0053
Enforcement Activity No. 7636249

DEFAULT ORDER
Issued: July 17, 2023

By Administrative Law Judge: Honorable George J. Jordan

Appearances:

Paul Lonardo
USCG Sector Houston/Galveston
For the Coast Guard

John William Powell, *Pro se*
For the Respondent

ORDER GRANTING COAST GUARD'S MOTION FOR DEFAULT ORDER

On February 14, 2023, the United States Coast Guard (Coast Guard) issued a Complaint against John William Powell (Respondent) seeking to revoke his Merchant Mariner Credential (MMC) for use of, or addiction to the use of dangerous drugs pursuant to 46 U.S.C §7704(b) and 46 C.F.R. 5.35. Specifically, the Coast Guard alleges that on February 11, 2022, the Respondent took a required pre-employment drug test pursuant to 46 C.F.R. Part 16. A urine specimen was collected from Respondent by Lauren Franklin of Southeast Texas Occupational Medical in Beaumont, Texas in accordance with 49 C.F.R Part 40. Respondent signed a Federal Drug Testing Custody and Control Form for providing urine specimen ID # 6730349. Urine specimen ID # 6730349 was received by and analyzed pursuant to 49 C.F.R. Part 40 by Quest Diagnostics Laboratory in Lenexa, Kansas, a certified SAMHSA laboratory. On February 17, 2022, urine specimen ID # 6730349 tested positive for Amphetamine and Methamphetamine as reported by Quest Diagnostics Laboratory. On February 28, 2022, Dr. Dana Carasig, the Medical Review Officer, determined that Respondent failed a chemical test for dangerous drugs. Respondent has been the user of a dangerous drugs, raising the presumption of use established by 46 C.F.R § 16.201(b). Respondent has been the user of a dangerous drug as described by 46 U.S.C. § 7704(b).

The Coast Guard filed its Return of Service for Complaint on February 21, 2023, indicating it served a copy of said Complaint to Respondent's residence by express courier service. The document was delivered to Respondent's residence where a person of suitable age and discretion signed for the document on February 16, 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(a). Respondent's Answer was due no later than March 8, 2023.

To date, Respondent has neither filed an Answer nor requested an extension of time to file an Answer; therefore, the Coast Guard filed its Motion for Default Order (Default Motion) on May 19, 2023, requesting the Administrative Law Judge (ALJ) issue a Default Order against Respondent imposing the sanction of revocation against Respondent's MMC. The Coast Guard subsequently filed a Return of Service for the Default Motion indicating it served a copy of said Default Motion to Respondent's residence by express courier service, where a person of suitable age and discretion signed for the document on May 22, 2023.

Title 33 C.F.R. § 20.310(b) 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 June 12, 2023¹. To date, Respondent has not filed his reply.

On June 20, 2023, the ALJ Docketing Center assigned this matter to me for review and adjudication. I have carefully reviewed this file, and find that 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.

¹ The actual due date was June 11, 2023, which fell on a Sunday. The next business day was Monday, June 12, 2023. 33 C.F.R. § 20.306(a)(2).

SANCTION

IT IS HEREBY ORDERED that Respondent John William Powell's Merchant Mariner Credential is **REVOKED**.

IT IS FURTHER ORDERED that Respondent immediately surrender his MMC to the Investigating Officer at the United States Coast Guard, Sector Houston/Galveston, Investigations Division, 13411 Hillard Street, Houston, TX 77034-5635. If Respondent knowingly continues to use his MMC, 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 July 17, 2023,
Seattle, Washington



George J. Jordan
Administrative Law Judge
United States Coast Guard

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