

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

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**UNITED STATES COAST GUARD,**

Complainant,

vs.

**DARIUS ROYAL KIDD,**

Respondent.

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Docket Number 2023-0194  
Enforcement Activity No. 7684339

**DEFAULT ORDER**

**Issued: May 6, 2024**

**By Administrative Law Judge: Honorable Timothy G. Stueve**

**Appearances:**

**LT John Crow  
CWO John Landry  
LT Alex Gagne  
USCG Sector Virginia**

**For the Coast Guard**

**Darius Royal Kidd, pro se**

**For Respondent**

### **Background**

On or about July 27, 2023, the Coast Guard filed a Complaint against Darius Royal Kidd, (Respondent) alleging one count of use of, or addiction to the use of dangerous drugs. The Return of Service for Complaint filed by the Coast Guard indicates the Complaint was delivered to Respondent's residence by Federal Express and signed for by a person of suitable age and discretion residing at that residence, on July 28, 2023 (Attachment A)<sup>1</sup>.

On April 23, 2023, the Coast Guard filed a Motion for Default Order<sup>2</sup> (Motion), explaining Respondent failed to file an Answer, and the response time has passed. See 33 C.F.R. § 20.308. The Return of Service for Motion for Default indicates the Motion was delivered to Respondent's residence by Federal Express and signed for by a person of suitable age and discretion on October 17, 2023 (Attachment B)<sup>3</sup>. The Chief Administrative Law Judge assigned the matter to the undersigned on April 24, 2024.

### **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).

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<sup>1</sup> The Coast Guard's Return of Service for the Complaint does not indicate the person that signed for receipt of the document. However, the Fedex proof of service attached to the Return of Service for the Complaint shows that "K.IDD" signed for the document.

<sup>2</sup> The Coast Guard's Motion for Default incorrectly states the Complaint was served on September 28, 2023 instead of the date it was actually served on July 28, 2023. This is a typographical error, as the July 28, 2023 date correlates with the Fedex Proof of Delivery.

<sup>3</sup> The Fedex Proof of Service attached to the Return of Service for the Motion for Default Order indicates that "K.JONES" signed for the document.

The Complaint filed by the Coast Guard and properly served on Respondent contained 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. Respondent failed to respond to the Complaint or the Motion for Default Order.

Accordingly, the undersigned finds Respondent in default pursuant to 33 C.F.R. § 20.310(a). Default 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). See Appeal Decision 2682 (REEVES) (2008).

As to the charge of use of, or addiction to the use of dangerous drugs, the Complaint alleges on May 3, 2023, Respondent took a required pre-employment drug test pursuant to 46 C.F.R. Part 16, and tested positive for marijuana metabolites. See 46 U.S.C. § 7704(b).

The factual allegations in the pleadings are legally sufficient to find the charge of use of, or addiction to the use of dangerous drugs **PROVED**. Id.

The undersigned finds the facts alleged in the Complaint sufficient to warrant the suggested sanction of **REVOCATION**. See 46 C.F.R. § 5.569.

**WHEREFORE,**

### **ORDER**

Upon consideration of the record, the undersigned finds Respondent in **DEFAULT**.

**IT IS HEREBY ORDERED**, in accordance with 33 C.F.R. § 20.310, the undersigned finds the allegations set forth in the Complaint **PROVED**.

**IT IS FURTHER ORDERED**, all of Respondent’s Coast Guard issued credentials, including Respondent’s Merchant Mariner Credential (MMC), are **REVOKED**.

**IT IS FURTHER ORDERED**, Respondent shall immediately deliver all Coast Guard issued credentials, licenses, certificates, or documents, including the MMC, by mail, courier service, or in person to: U.S. Coast Guard Sector Virginia, 200 Granby Street, Suite 700, Norfolk, VA 23510. In accordance with 18 U.S.C. § 2197, if **Respondent knowingly continues to use the Coast Guard issued MMC, Respondent may be subject to criminal prosecution.**

**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 in Baltimore. 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 21201-4022.

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

**SO ORDERED.**



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Honorable Timothy G. Stueve  
Administrative Law Judge  
U.S. Coast Guard

Done and dated May 6, 2024, at  
Alameda, California