

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

UNITED STATES COAST GUARD
Complainant

vs.

VERNON RECE PENNYWELL III
Respondent

Docket Number 2024-0002
Enforcement Activity No. 7836662

DEFAULT ORDER

This matter comes before me on the United States Coast Guard's (Coast Guard) Motion for Default Order. As of the date of this order, Vernon Pennywell (Respondent) has not filed an answer to the Coast Guard's Motion. 33 C.F.R. § 20.310. As set forth below, I find Respondent is in **DEFAULT** and his credentials are **REVOKED**.

1. Background

On May 23, 2024, the United States Coast Guard (Coast Guard) served an Amended Complaint (the Complaint) against Respondent seeking revocation of his merchant mariner credential. The Complaint alleges on March 13, 2023, Respondent took a random drug test pursuant to 46 C.F.R. Part 16. The Complaint further alleges a urine specimen was collected from Respondent pursuant to 49 C.F.R. Part 40, which tested positive for marijuana metabolites. Lastly, the Complaint alleges that Respondent has been the user of dangerous drugs as described by 46 U.S.C. § 7704(b). To date, Respondent has not filed an Answer to the Complaint as required by 33 C.F.R. § 20.308.

On July 24, 2024, the Coast Guard served Respondent with a Motion for Default Order pursuant to 33 C.F.R. § 20.310. As of the date of this order, Respondent has not filed a response to the Coast Guard's motion.

2. **Discussion**

Pursuant to 33 C.F.R. § 20.308, a Respondent must file an Answer to a Complaint 20 days or less after service of the Complaint. If the Respondent fails to file an Answer without good cause shown, “[t]he ALJ may find a respondent in default. . .” 33 C.F.R. § 20.310. Default constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. See 33 C.F.R. § 20.310(c); Appeal Decision 2682 (REEVES) (2008).

After careful consideration of the facts and circumstances of this case, I find more than twenty days have passed since the Coast Guard served Respondent with the Complaint in this matter. Furthermore, given that Respondent has not responded to the Coast Guard's Motion, I find Respondent has not shown good cause for his failure to file an Answer timely. Accordingly, I find Respondent in **DEFAULT** pursuant to 33 C.F.R. § 20.310(a).

Having found Respondent in **DEFAULT**, Respondent admits the facts in the Complaint by operation of 33 C.F.R. § 20.310(c). Based on these admitted facts, I find I have jurisdiction over the subject matter of the Complaint. I further find these admitted facts prove Respondent violated 46 U.S.C. § 7704(b), as Respondent failed a drug test pursuant to 46 C.F.R. Part 16 and has therefore been the user of dangerous drugs as described by 46 U.S.C. § 7704(b). Furthermore, the undersigned finds the facts alleged in the Complaint sufficient to warrant the sanction of **REVOCATION**. Id.

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 his Merchant Mariner Credentials, are **REVOKED**. Respondent shall immediately cease using all Coast Guard issued credentials.

IT IS FURTHER ORDERED, Respondent must immediately deliver by mail, courier service, or in person, his Merchant Mariner Credential and any other Coast Guard issued credentials, licenses, certificates, or documents to: CWO4 Kimberly McLean, 13411 Hilliard St., Houston, Texas, 77034.

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 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 that 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.

SO ORDERED.

Done and dated this 30th day of October, 2024
New Orleans, LA



Brian J. Curley
US Coast Guard
Administrative Law Judge