

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

UNITED STATES COAST GUARD,	)	
Complainant,	)	
	)	Docket Number: 2024-0049
vs.	)	
	)	Enforcement Activity Number: 7838147
IAN MANUEL FERNANDEZ,	)	
Respondent.	)	

**DEFAULT ORDER**

**Issued:** November 4, 2024

**By Order of Chief Administrative Law Judge: Hon. Walter J. Brudzinski**

**Appearances:**

**For the Coast Guard**

LT Claude A. Nadal  
USCG Sector San Diego

**For the Respondent**

Ian Manuel Fernandez, *Pro se*

## **ORDER GRANTING COAST GUARD'S MOTION FOR DEFAULT ORDER**

On February 5, 2024, the United States Coast Guard Sector San Diego (Coast Guard) issued a Complaint against Ian Manuel Fernandez (Respondent) seeking to revoke his Merchant Mariner Credential (MMC) for drug use, in violation of 46 U.S.C. § 7704(b) and 46 C.F.R. § 5.35. Specifically, the Coast Guard alleges on May 4, 2023, Respondent took a random drug test in accordance with Civilian Marine Personnel Instruction 792, pursuant to Executive Order 12564, and Public Law 100-71. Respondent's specimen tested positive for cocaine.

The Coast Guard filed its Return of Service for Complaint on March 6, 2024, indicating it served a copy of said Complaint to Respondent at his residence by FedEx express courier service. Respondent signed for the document on February 9, 2024. 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. Respondent's Answer was due no later than February 29, 2024.

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 July 1, 2024, requesting the Administrative Law Judge (ALJ) issue a Default Order against Respondent imposing the sanction asked for in the Complaint.

On October 30, 2024, the Coast Guard filed its Return of Service for the Default Motion. The Coast Guard Investigating Officer also filed his Proof of Service – Sworn Affidavit (Sworn Affidavit), which provides a thorough explanation regarding service of the Complaint and the Default Motion. The document also includes the FedEx tracking reports for the Complaint and the Default Motion, attached as Attachments A and B, respectively.<sup>1</sup> The Coast Guard asserts

---

<sup>1</sup> I note that the Default Motion does not contain a Certificate of Service. Instead, the Coast Guard provides a detailed summary regarding service of both the Complaint and Default Order in its October 30, 2024 Sworn Affidavit. The Coast Guard also states in its Sworn Affidavit, that it was communicating with Respondent after

that it attempted to serve Respondent with the Default Motion by FedEx express courier service at the address on record. However, FedEx made several delivery attempts on July 9, 2024, July 10, 2024, and July 11, 2024, but an adult recipient was unavailable. Therefore, on July 16, 2024, FedEx returned the package to the Coast Guard due to the lack of signature from a person of suitable age and discretion residing at Respondent's residence. *See* Attachment B of the Sworn Affidavit.

Title 33 C.F.R. § 20.304(h) provides “[i]f a person refuses to accept delivery of any document or fails to claim a properly addressed document other than a complaint sent under this subpart, the Coast Guard considers the document served anyway. Service is valid at the date and the time of mailing of deposit with a contract service or express-courier service, or of refusal to accept delivery.” Therefore, service of the Coast Guard's Default Motion became valid on July 3, 2024, the date the package was deposited with FedEx.

On October 31, 2024, the ALJ Docketing Center assigned this matter to the undersigned for review and adjudication. After careful review of this file, I find 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.

---

service of the Complaint. During this communication, Respondent informed the Coast Guard that he wanted to voluntarily surrender his MMC. However, Respondent did not follow through with the voluntary surrender. He also stopped communicating with the Coast Guard, and did not respond to the Coast Guard's emails in its attempts to reach him on March 20, 2024, April 9, 2024, and May 22, 2024.

**SANCTION**

**IT IS HEREBY ORDERED** that Respondent Ian Manuel Fernandez'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 San Diego, 2710 N. Harbor Drive, San Diego, CA 92101. If Respondent knowingly continues to use his credentials, 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 November 4, 2024  
New York, NY



---

HON. WALTER J. BRUDZINSKI  
CHIEF ADMINISTRATIVE LAW JUDGE  
UNITED STATES COAST GUARD