

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

UNITED STATES COAST GUARD,

Complainant,

vs.

SHAVIVOR NAOMI GRACE MITCHELL,

Respondent.

Docket Number 2024-0082
Enforcement Activity No. 7826402

DEFAULT ORDER

Issued: March 5, 2025

By Administrative Law Judge: Honorable Timothy G. Stueve

Appearances:

**Meghan Palomba
Sector Virginia**

For the Coast Guard

Shavivor Naomi Grace Mitchell, pro se

For Respondent

Background

On or about August 7, 2024, the Coast Guard filed a Complaint against Shavivor Naomi Grace Mitchell (Respondent) for misconduct. The Coast Guard alleges: 1) the Respondent failed to remain at the urine collection site as required by section 8.9, 2) the Respondent's failure to remain at the urine collection site is a refusal to take a required drug test pursuant to DHHS Mandatory Guidelines for Federal Workplace Drug testing, and 3) this is Misconduct as described by 46 U.S.C § 7703(1)(B) and defined by 46 C.F.R § 5.27. In aggravation, the Coast Guard alleges Respondent's failure to remain at the collection site was an intentional act to circumvent drug testing regulations and undermine marine safety. Based on this charge of misconduct, the Coast Guard is seeking REVOCATION of the Respondent's Merchant Mariner Credential (MMC). 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 August 9, 2025 (Attachment A)¹.

On September 17, 2024, the Coast Guard filed a Motion for Default Order (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 September 18, 2024 (Attachment B)². The Chief Administrative Law Judge assigned the matter to the undersigned on October 15, 2024. Then on October 24, 2024, I issued

¹ 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 "S. Mitchell" signed for the document.

² The Fedex Proof of Service attached to the Return of Service for the Original Motion for Default Order indicates that "W. Wayne" signed for the document.

an Order Denying the Coast Guard's Original Motion for Default filed September 17, 2024. The Coast Guard had left out a key fact in the jurisdictional allegation of the Complaint of the Original Motion for Default: that Respondent was "acting under the authority" of Respondent's Merchant Mariner Credential at the time of alleged misconduct. The Coast Guard then filed a Revised Complaint (Attachment C)³ on November 1, 2024. Subsequently, the Coast Guard filed a Revised Motion for Default on January 16, 2025. The Return of Service for the Revised Motion for Default indicates Federal Express unsuccessfully attempted to deliver the Revised Motion to Respondent's residence, and Fedex then communicated with Respondent to pick up the package at their station on January 20, 2025 (Attachment D). The package was not claimed by Respondent despite this notice from Fedex. For the reasons set forth in this Order, the Coast Guard's Revised Motion for Default submitted on January 16, 2025 is APPROVED.

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).

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

³ The Fedex Proof of Service attached to the Return of Service for the Revised Complaint indicates that "W. Wayne" signed for the document.

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. A document is served if a person refuses to accept delivery of any document or fails to claim a properly addressed document. 33 C.F.R. § 20.304 (h).

Here, Respondent failed to notify the Coast Guard of a new address and failed to claim the properly addressed Motion for Default. Thus, the motion was properly served. 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).

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, 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 E).

SO ORDERED.

A handwritten signature in blue ink, appearing to read 'T. Stueve', is positioned above a horizontal line.

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

Done and dated March 5, 2025, at
Alameda, California