

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

---

**UNITED STATES COAST GUARD,**

Complainant,

**vs.**

**DE'WAYNE MARQUEL CURRY,**

Respondent,

---

Docket Number: 2024-0407  
Enforcement Activity Number: 7936708

**DEFAULT DECISION**

Issued: November 14, 2024

**By: George J. Jordan, Administrative Law Judge**

**Appearances:**

**LT Edward Wright**  
For the Coast Guard

**De'Wayne Marquel Curry, *Pro se***  
For the Respondent

This matter comes before me based on the United States Coast Guard's (Coast Guard) Motion for Default Order (Motion for Default). As of the date of this order, De'Wayne Marquel Curry (Respondent) has not replied to the Complaint nor the Motion for Default. Upon review of the record and pertinent authority, the allegations in the Complaint are **PROVED**.

On August 6, 2024, the Coast Guard issued a Complaint against Respondent seeking to suspend his Merchant Mariner Credential (MMC) for five months as the result of misconduct in violation of 46 U.S.C. § 7703(1)(B), as described in 46 C.F.R. § 5.27 due to violating his employer's policy on intoxication. Specifically, the Coast Guard alleges Respondent was intoxicated while on board his employer's vessel.

The Coast Guard served the Complaint on Respondent via express courier service delivered to his place of residence and signed for by a person of suitable age and discretion residing at the residence on August 7, 2024. Respondent did not file an answer. On September 17, 2024, the Coast Guard then filed a Motion for Default completing service of the motion on September 19, 2024 again via express courier. To date, more than twenty days have passed from service of the Motion for Default and Respondent has neither filed an answer nor requested an extension of time to file an answer. 33 C.F.R. § 20.308(a).

As Respondent has not filed an answer nor asserted good cause for failing to do so, I find Respondent in **DEFAULT**. 33 C.F.R. § 20.310(a); Appeal Decision 2700 (THOMAS) (2012). A default constitutes an admission of all facts alleged in the Complaint and waiver of the right to hearing on those facts. 33 C.F.R. § 20.310(c). I find the following factual allegations in the Complaint **ADMITTED**:

1. On June 3, 2024, Respondent was employed by NCL PRIDE OF AMERICA and subject to Norwegian Cruise Lines (Bahamas), Ltd. (NCL) policies.

2. On June 3, 2024, NCL, PRIDE OF AMERICA had a policy prohibiting employees from being intoxicated on board the PRIDE OF AMERICA with a blood alcohol concentration (BAC) greater than 0.04%.
3. On June 3, 2024, Respondent was intoxicated with a BAC greater than 0.04% while on board the vessel, in violation of NCL, PRIDE of AMERICA's Drug and Alcohol Policy.
4. Respondent's violation of NCL, PRIDE of AMERICA's Drug and Alcohol Policy is misconduct, as described by 46 U.S.C. § 7703(1)(B) and defined by 46 C.F.R. § 5.27.

Upon finding Respondent in default, I must now issue a decision against him. 33

C.F.R. § 20.310(d). In reviewing the record, I find that the facts deemed admitted are sufficient to establish that Respondent's violation of company policy designed to achieve safety at sea is misconduct, as described by 46 C.F.R. § 5.27. Appeal Decision 1567 (CASTRO) (1966); Appeal Decision 361 (GROVES & LOVE) (1949). Accordingly, I find Respondent committed misconduct. 46 U.S.C. § 7703(1)(B).

### **SANCTION**

Having found Respondent in default and all allegations in the Complaint proved, I now must determine the appropriate sanction. 33 C.F.R. § 20.902(a)(2). The Administrative Law Judge (ALJ) has the sole discretion to determine the appropriate sanction at the conclusion of a case. Appeal Decision 2362 (ARNOLD) (1984).

Even so, Table 5.569 Suggested Range of an Appropriate Order (Table) provides a sanction range intended to promote uniformity in orders rendered. 46 C.F.R. § 5.569(d) tbl. 5.569; Appeal Decision 2694 (LANGLEY) (2011). Sanctions consistent with the Table are not excessive. Id. However, an ALJ has wide discretion to choose an appropriate sanction based on the specific facts of a case while not bound by the Table or recommendation of the Coast Guard. Appeal Decision 2695 (AILSWORTH) (2011).

The Table does not specify a sanction for the violation of a company policy. 46 C.F.R. § 5.569(d) tbl. 5.569. Yet, violations of company policy are analogized to a lawful order of a master in some cases. Appeal Decision 2723 (BOUDREAUX) (2019); Appeal Decision 1567 (CASTRO). Therefore, the most applicable sanction range in the Table for violation of the NCL policy in this case, is “Failure to obey [the] master’s/ship officer’s order.” 46 C.F.R. § 5.569 tbl. 5.569. This specifies a sanction range of one to three months outright suspension. Id.

When a sanction departs from the Table a clearly articulated explanation of the aggravating and, or mitigating factors must support it. Appeal Decision 2702 (CARROLL) (2013) (quoting Commandant v. Moore, NTSB Order No. EM-201 (2005)); Appeal Decision 2455 (WARDELL) (1987), aff’d, NTSB Order No. EM-149 (1988).

In this case the Coast Guard requests a sanction of five months outright suspension, exceeding the sanction range in the Table. I note that Respondent’s conduct could also fit within other sanctions provided in the Table. Such as, possession of intoxicating liquor warranting a sanction of one to four months outright suspension. Also, the failure to perform duties related to vessel safety corresponding to a sanction of three to six months outright suspension. In light of these sanction ranges for similar conduct and Respondent’s failure to engage in the suspension and revocation process, I find the proved allegations against Respondent merit an increased sanction in this case. As a result, I am ordering a five-month outright suspension of his MMC.

**WHEREFORE,**

**ORDER**

Upon consideration of the record, I find Respondent in **DEFAULT**.

**IT IS HEREBY ORDERED**, in accordance with 33 C.F.R. § 20.310, I find 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 **SUSPENDED OUTRIGHT FOR FIVE MONTHS**.

**IT IS FURTHER ORDERED**, Respondent shall immediately deliver all Coast Guard issued credentials, licenses, certificates, or documents, including the MMC 000713855, by mail, courier service, or in person to: LT Edward Wright, United States Coast Guard, Sector Miami, 100 MacArthur Causeway, Miami Beach, FL 33139. 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.**

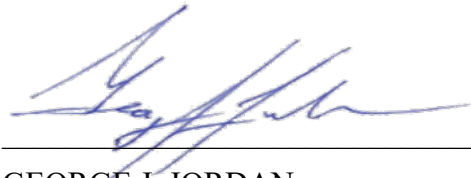
**IT IS FURTHER ORDERED**, pursuant to 33 C.F.R. § 20.310(e), for good cause shown, an ALJ may set aside a finding of default. A motion to set aside a finding of default may be filed with the ALJ Docketing Center in Baltimore. The motion may be sent to the U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21202-4022.

**PLEASE TAKE NOTICE**, within three (3) years or less, Respondent may file a motion to reopen this matter and seek modification of the order of revocation upon a showing that the order of revocation is no longer valid, and the issuance of a new license, certificate, or document is compatible with the requirement of good discipline and safety at sea. See generally 33 C.F.R. § 20.904.

**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 A).

**SO ORDERED.**

Done and dated, November 14, 2024,  
Seattle, Washington



---

GEORGE J. JORDAN  
UNITED STATES COAST GUARD  
ADMINISTRATIVE LAW JUDGE