

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

UNITED STATES COAST GUARD,

Complainant,

vs.

MICHELLE PATRICE HUNT,

Respondent,

**Docket Number 2024-0470
Enforcement Activity Number 8005281**

DEFAULT DECISION

Issued: December 17, 2024

By: George J. Jordan, Administrative Law Judge

Appearances:

**LT Meghan E. Palomba
Sector Virginia
For the Coast Guard**

**Michelle P. Hunt, *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, Michelle Patrice Hunt (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 October 4, 2024, the Coast Guard filed a Complaint against the Respondent seeking to revoke her Merchant Mariner Credential (MMC) for being convicted of a criminal offense under the National Driver Registration Act in violation of 46 U.S.C. § 7703(3), and for refusing to take a required pre-employment drug test in violation of 46 U.S.C. § 7703(1)(B), and 46 C.F.R. § 5.27. Specifically, the Coast Guard alleges Respondent was convicted on August 7, 2024 for driving a motor vehicle while intoxicated in the state of Virginia, and departing a testing facility prior to the completion of a required pre-employment drug test.

The Coast Guard served the Complaint upon Respondent by express courier service delivered to Respondent's residence where it was signed for by a person of suitable age and discretion on October 5, 2024. Subsequently, the Coast Guard filed a Motion for Default on November 1, 2024, served upon Respondent by courier service and signed for by a person of suitable age and discretion residing at Respondent's residence on November 2, 2024. 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**.

I. Conviction under the National Driver Registration Act (NDRA):

1. On August 7, 2024, Respondent was convicted of violating Virginia Code 18.2-266 by the Virginia Beach General District Traffic Court.
2. Virginia 18.2-266 is an offense described or comparable to those in 49 U.S.C. § 30304(a)(3)(A), as identified by 46 U.S.C. § 7703(3).

II. Misconduct:

1. On April 12, 2024, Respondent took a required pre-employment drug test pursuant to 46 C.F.R. Part 16.
2. Respondent reported to Concentra Medical Center in Chesapeake, Virginia, where Walter Powell initiated the collection process by allowing Respondent to select an individually wrapped or sealed collection container from collection kit materials, in accordance with 49 C.F.R. § 40.63.
3. Prior to the completion of the collection process, as described by 49 C.F.R. § 40.79(a)(7)¹, Respondent failed to remain at the urine collection site by departing the facility.
4. Respondent's failure to remain at the urine collection site is a refusal to take a required drug test pursuant to 46 C.F.R. Part 16, as described by 49 C.F.R. § 40.191(a)(2).
5. Refusal to take a required drug test 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 her. 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 Virginia State conviction is in violation of 46 U.S.C. § 7703(3), and her failure to take a drug test is misconduct in violation of regulation, as described by 46 U.S.C. § 7703(1)(B), and 46 C.F.R. § 5.27. Accordingly, I find Respondent was convicted of an

¹ The Complaint contained a scrivener's error reciting the citation as 49 C.F.R. § 40.73(a)(7).

offense under the National Driver Registration Act and committed misconduct by refusing a required drug test.

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). While it is within the sole discretion of the Administrative Law Judge (ALJ) to determine the appropriate sanction at the conclusion of a case. Appeal Decision 2362 (ARNOLD) (1984). The Table of Suggested Range of Appropriate Orders (Table) provides sanction ranges for various offenses. 46 C.F.R. § 5.569 tbl. 5.569. The purpose of this Table is to provide guidance to the ALJ and promote uniformity in orders rendered. Appeal Decision 2628 (VILAS) (2022), aff'd NTSB Order No. ME-174. A sanction ordered within the range specified in the Table is not excessive. 46 C.F.R. § 5.569(d).

However, this Table is not binding on an ALJ and either aggravating or mitigating circumstances may support a sanction different from the Table. 46 C.F.R. § 5.569(b)(3). In order to assess a sanction greater than the range specified in the Table a clearly articulated explanation of the aggravating 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).

The Coast Guard proved Respondent committed misconduct under 46 U.S.C. § 7703(1)(B) in refusing a required drug test. This corresponds to a sanction range from the Table of 12-24 months outright suspension. 46 C.F.R. § 5.569 tbl. 5.569. Additionally, the Coast Guard proved Respondent violated 46 U.S.C. § 7703(3) for being convicted of an offense described in 49 U.S.C. § 304(a)(3)(A). No sanction range in the Table corresponds to this violation. Id. However, Congress' intention for adding offenses described in 49 U.S.C. §

304(a)(3)(A) as a basis for suspension or revocation was to identify persons with motor vehicle offenses related to the use of drugs or alcohol. H.R. REP. NO. 101-653, at 28 (1990). Congress concluded abusers of these substances may evince possible unsafe vessel operations leading to additional accidents. Id. Additionally, this new provision was intended to act as tool to promote a drug and alcohol-free workplaces in the maritime industry. Id. Moreover, revocation may be sought when the circumstances of a respondent's acts, offense, or prior record demonstrate that allowing them to serve under their MMC is clearly a threat to safety of life or property. 46 C.F.R. § 5.61(b).

Based on Congress' intention behind 46 U.S.C. § 7703(3), Respondent's conviction of a motor vehicle offense concerning alcohol as described in 49 U.S.C. § 304(a)(3)(A), coupled with Respondent's refusal of a drug test leads to the conclusion that allowing them to retain their MMC would endanger life. Therefore, I find the allegations in the Complaint are **PROVED** warranting revocation of Respondent's MMC the appropriate sanction under the provisions of 46 C.F.R. § 5.569.

WHEREFORE,

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ORDER

IT IS HEREBY ORDERED, all of Respondent's Coast Guard issued credentials, including Respondent's MMC, are **REVOKED**.

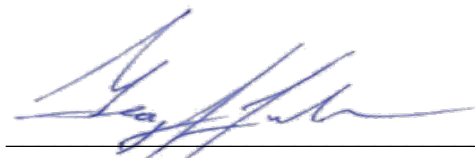
IT IS FURTHER ORDERED, Respondent shall immediately deliver all Coast Guard issued credentials, licenses, certificates, or documents, including the MMC [REDACTED], by mail, courier service, or in person to: LT Meghan Palomba, Sector Virginia, United States Coast Guard, 200 Granby Street, Suite 700, Norfolk, 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 21202-4022.

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 A).

IT IS SO ORDERED.

Done and dated, December 17, 2024,
Seattle, Washington

A handwritten signature in blue ink, appearing to read "George J. Jordan", is written over a horizontal line.

GEORGE J. JORDAN
UNITED STATES COAST GUARD
ADMINISTRATIVE LAW JUDGE