

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

UNITED STATES COAST GUARD
Complainant

vs.

DION MARTIN
Respondent

Docket Number 2026-0115
Enforcement Activity No. 8323056

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, Dion Martin (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 **SUSPENDED** for a period of **EIGHTEEN (18) MONTHS**.

1. Background

On April 2, 2026, the United States Coast Guard (Coast Guard) served a Complaint (the Complaint) against Respondent seeking revocation of his merchant mariner credential (MMC).

The Complaint alleges that Respondent is the holder of Merchant Mariner Credential [REDACTED]. The Complaint further alleges on November 24, 2025, Respondent underwent a random drug test pursuant to 46 C.F.R. Part 16. The Complaint further alleges that a urine specimen was collected from Respondent on November 24, 2025, which was determined to have an abnormal pH level. Consequently, Respondent was directed to provide a second urine sample under direct observation, which was to take place on December 2, 2025. However, on December 2, 2025, prior to the completion of the collection process, Respondent failed to remain at the

collection site. Lastly, the Complaint alleges that Respondent's failure to remain at the collection site on December 2, 2025, is a refusal to take required drug test under 46 C.F.R. Part 16, as described in 49 C.F.R. § 40.191(a)(2), and therefore constitutes misconduct pursuant to 46 U.S.C. § 7703(1)(B) and 46 C.F.R. § 5.27. In aggravation, the Complaint alleged Respondent's refusal to test "circumvents the required drug testing procedures." The Complaint proposed revocation as a sanction. The Respondent did not file an answer to the complaint.

On May 5, 2026, 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.

1. 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 her 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 that Respondent failed to remain at a test site, constituting a refusal to test under 46 C.F.R. Part 16, as

described by 49 C.F.R. § 40.191(a)(2). I further find this refusal to test constitutes misconduct by violation of a regulation pursuant to 46 U.S.C. § 7703(1)(B) and 46 C.F.R. § 5.27.

2. Sanction

Having found Respondent in default and finding all allegations in the Complaint proved, I must now determine the appropriate sanction. 33 C.F.R. § 20.902(a)(92). 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). 46 C.F.R. § 5.569 provides a Table of suggested ranges for sanctions for various offenses. The purpose of this table is to provide guidance to the ALJ and promote uniformity in orders rendered. Appeal Decision 2628 (VILAS) (2002), 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).

The Table is not binding on the ALJ, however, and either aggravating or mitigating factors may support a sanction other than those listed in the Table. 46 C.F.R. § 5.569(b)(3). Here, the Coast Guard has proved that Respondent committed misconduct by violating a regulation. The sanction range in the Table for violations of regulations concerning a refusal of a drug or alcohol test provides a sanction of 12 to 24 months outright suspension. See 46 C.F.R. § 5.569, table 5.569.

The Coast Guard in this case, however, seeks revocation of the Respondent's MMC. In order to assess a sanction greater than the sanction range, there must be a clearly articulated explanation of aggravating factors to support the increased sanction. 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).

Here, the Coast Guard argues that the aggravating factor in Respondent's misconduct was "Respondent's refusal to provide a sample when notified it would be under direct observation

circumvents the required drug testing procedures.” However, this “aggravation,” that Respondent refused to complete the test, serves as the basis of the misconduct charge of a refusal to test. Here, the Coast Guard has not articulated any particular aggravating factors other than those serving as the basis of the underlying charge that would support elevation of the sanction beyond the range of 12-24 month suspension as outlined in Table 5.569. Accordingly, I find that Respondent’s departure from the collection site prior to the completion of the collection in this case merits the sanction of 18 months outright suspension.

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 **SUSPENDED** for a period of **EIGHTEEN (18) MONTHS**. 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, her Merchant Mariner Credential and any other Coast Guard issued credentials, licenses, certificates, or documents to: U.S. Coast Guard Sector Virginia, c/o Michael Rose, CWO, 200 Granby Street, Suite 700, Norfolk, VA 23510.

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.

SO ORDERED.

Done and dated this 9th day of June, 2026
New Orleans, LA

A handwritten signature in black ink, appearing to read 'B. J. Curley', is written over a horizontal line.

Brian J. Curley
US Coast Guard
Administrative Law Judge