

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

UNITED STATES COAST GUARD	)	
Complainant	)	
	)	Docket Number: 2023-0450
vs.	)	
	)	MISLE Activity ID:
ANDREW JERRY KEITH MONTOYA	)	
Respondent.	)	

**DEFAULT ORDER**

**Issued:** March 4, 2024

**By Administrative Law Judge Administrative Law Judge:**

**Honorable Brian J. Curley**

**Appearances:**

**For the Coast Guard**

Jakobi Bradford  
Sector San Francisco

**For Respondent**

Andrew Jerry Keith Montoya

## **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, Andrew Montoya (Respondent) has not filed a reply to the motion. 33 C.F.R. § 20.310. As set forth below, I find Respondent is in **DEFAULT** and his credentials are **SUSPENDED OUTRIGHT FOR 3 MONTHS**.

### **Background**

On December 8, 2023, the United States Coast Guard (Coast Guard) served a Complaint against Andrew Jerry Keith Montoya (Respondent) alleging Misconduct. See 46 U.S.C. § 7703(1)(b) and 46 U.S.C. § 5.27. To date, Respondent has not filed an Answer to the Complaint as required by 33 C.F.R. § 20.308.

On January 24, 2024, 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.

### **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 his 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, the undersigned finds I have jurisdiction over the subject matter of the Complaint and the charge alleging Misconduct as described by 46 U.S.C. 7703(1)(b) and 46 U.S.C. 5.27. I further find these admitted facts prove Respondent violated 46 U.S.C. § 7703(1)(b) and 46 U.S.C. 5.27. Furthermore, the undersigned finds the facts alleged in the Complaint sufficient to warrant the suggested sanction of **3 months outright suspension. Id.**

**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 Credential, are suspended for **3 months** beginning on the date of this Order. Respondent shall immediately cease using all Coast Guard issued credentials.

**IT IS FURTHER ORDERED** that Respondent must immediately surrender his credentials to the Investigating Officer at the United States Coast Guard Sector Jakobi Bradford Sector San Francisco, 1 Yerba Buena Road Bldg 26 San Francisco, CA 94130. If Respondent knowingly continues to use his credentials, he 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 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** that 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.



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Brian Curley  
Administrative Law Judge

Date: March 4, 2024