

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

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**UNITED STATES COAST GUARD,**

Complainant,

vs.

**Preston Rolf Mertes,**

Respondent.

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Docket Number 2023-0040  
Enforcement Activity No. 7623217

**DEFAULT ORDER**

**Issued: June 23, 2023**

**By: Administrative Law Judge: Honorable Tommy B. Cantrell**

**Appearances:**

**Mr. Eric Bauer  
Suspension & Revocation National Center of Expertise  
For the Coast Guard**

**Preston Rolf Mertes, *pro se*  
For Respondent**

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, Preston Rolf Mertes (Respondent) has not responded to the Complaint or the Motion for Default. Upon review of the record and pertinent authority, the Coast Guard's Motion for Default is **GRANTED**.

### **I. Background**

On February 6, 2023, the Coast Guard filed a Complaint against Respondent alleging the Transportation Security Administration (TSA) revoked Respondent's Transportation Worker Identification Card (TWIC) because Respondent poses an imminent security threat in accordance with 49 C.F.R. § 1572.21(d)(3). The Coast Guard also alleges on July 28, 2022, Respondent was convicted of violating North Carolina G.S. No. 14-33(C)(1), Assault Inflicts Serious Injury upon another person or uses a deadly weapon, a misdemeanor, by the Superior Court. Based on this state conviction, the Coast Guard also alleges Respondent was convicted of an offense that would preclude the issuance or renewal of MMC, as described in 46 U.S.C. 7703(2). The Return of Service for Complaint filed by the Coast Guard indicates the Complaint was delivered to Respondent personally with an Answer form by Special Agent Jeffrey Thornley of the Coast Guard Investigative Service on February 6, 2023.

On March 9, 2023, 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 personally delivered to Respondent in Currituck County North Carolina Detention Facility on April 25, 2023. Thereafter, the Chief Administrative Law Judge assigned the matter to me on May 23, 2023.

### **II. 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 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.

Here, the record shows Respondent did not file an Answer and has made no attempt to provide good cause for not doing so. Furthermore, nothing in the record indicates Respondent asked for an extension of time. Accordingly, I find 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).

As to the factual allegations in the Complaint concerning the TWIC revocation and the conviction, as noted above, by operation of the default, Respondent admits to all these factual allegations. Furthermore, after review of the factual allegations in the Complaint, I find they are legally sufficient to find Respondent is ineligible to hold an MMC and therefore the Complaint is **PROVED** by admission. Id. Based on this finding, I also find the facts alleged in the Complaint sufficient to warrant the sanction of **REVOCATION**. See 46 C.F.R. § 10.235(h); 46 U.S.C. 7703(2).

Accordingly, as set forth above, upon consideration of the record, I find Respondent in **DEFAULT.**

**WHEREFORE,**

**ORDER**

**IT IS HEREBY ORDERED**, in accordance with 33 C.F.R. § 20.310, I find the allegations set forth in the Complaint **PROVED** by admission.

**IT IS FURTHER 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, by mail, courier service, or in person to: Suspension & Revocation National Center of Expertise, 100 Forbes Dr, Martinsburg, WV 25404. 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 C).

**SO ORDERED.**

Done and dated this 23rd day of June 2023, at  
Galveston, Texas



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HON. TOMMY B. CANTRELL  
ADMINISTRATIVE LAW JUDGE  
UNITED STATES COAST GUARD