

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

UNITED STATES COAST GUARD,

Complainant,

vs.

MICHAEL JAMES DAIGLE,

Respondent.

Docket Number 2023-0057
Enforcement Activity No. 7630656

DEFAULT ORDER

Issued By: Honorable George J. Jordan, Administrative Law Judge

Issued: April 24, 2023

Appearances:

**Eric Bauer
Suspension & Revocation National Center for Expertise**

For the Coast Guard

Michael James Daigle, *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, Michael James Daigle (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**.

Background

On February 15, 2023, the Coast Guard filed a Complaint against Respondent alleging he is a security risk as described by 46 U.S.C. § 7703(5). The jurisdictional allegations in the Complaint indicate Respondent is the holder of Merchant Mariner Credentials (MMC) 000558880. The Return of Service for the Complaint filed by the Coast Guard indicates the Complaint was delivered to Respondent's residence by Express Courier Service and signed for by a person suitable age and discretion at the residence on February 22, 2023.

On March 20, 2023, the Coast Guard filed a Motion for Default Order, explaining Respondent failed to file an Answer and the response time had passed. See 33 C.F.R. § 20.308. The Return of Service for Motion for Default Order indicates the Motion was delivered to Respondent's residence by Express Courier Service and signed for by a person suitable age and discretion at the residence on March 22, 2023. The Chief Administrative Law Judge assigned the matter to the undersigned Administrative Law Judge (ALJ) on April 17, 2023.

Discussion

The 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 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 a respondent's right to a hearing on those facts. 33 C.F.R. § 20.310(c). See Appeal Decision 2682 (REEVES) (2008).

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 he could request an extension of time "within 20 days" of receipt. Respondent failed to respond to the Complaint or request an extension of time. Similarly, Respondent failed to respond to the properly served 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.

Title 33 C.F.R. § 20.310 provides "the respondent alleged to be in default shall file a reply to the motion 20 days or less after service of the motion." To date, Respondent has not filed a reply.

Accordingly, I find Respondent is 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 charge of Security Risk That Poses a Threat to the Safety or Security of a Vessel or Structure Located Within or Adjacent to the Marine Environment, the Complaint alleges that on November 28, 2022, the Transportation Security Administration (TSA) determined that Respondent does not meet the security threat assessment standards described in 49 CFR § 1572.5, poses an imminent security threat in accordance with 49 CFR § 1572.21(d)(3), and revoked Respondent's TWIC, in accordance with 49 CFR § 1572.5(b). Respondent's ineligibility to hold a TWIC is proof Respondent is not eligible for an MMC, in accordance with 46 CFR §§ 10.101 and 10.235(h). The deemed-admitted allegations are sufficient to establish that Respondent is a security risk as described by 46 U.S.C. § 7703(5), and therefore, the

Complaint is **PROVED**. 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. § 5.569.

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 **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: Eric Bauer, Investigation Officer, Suspension & Revocation National Center for Expertise, 100 Forbes Drive 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 A).