

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

UNITED STATES COAST GUARD,

Complainant,

vs.

MATTHEW BENSON,

Respondent.

Docket Number 2023-0070
Enforcement Activity No. 7637724

DEFAULT ORDER

Issued: May 15, 2023

By Administrative Law Judge: Honorable Timothy G. Stueve

Appearances:

**CWO John Landry
USCG Sector Virginia**

For the Coast Guard

Matthew Benson, pro se

For Respondent

Background

On March 1, 2023, the Coast Guard filed a Complaint against Matthew Benson (Respondent) alleging one count of use of, or addiction to the use of dangerous drugs. The Return of Service for Complaint filed by the Coast Guard indicates the Complaint was delivered to Respondent's residence by Federal Express and signed for by a person of suitable age and discretion residing at the residence on March 2, 2023 (Attachment A).

On April 13, 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 states the Motion was delivered to Respondent's residence by Federal Express and signed for by Respondent on April 12, 2023 (Attachment B). The Chief Administrative Law Judge assigned the matter to me on May 9, 2023.

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.

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 charge of use of, or addiction to the use of dangerous drugs, the Complaint alleges on December 16, 2022, Respondent took a required pre-employment drug test pursuant to 46 C.F.R. Part 16, and tested positive for Marijuana metabolites (THCA). See 46 U.S.C. § 7704(b).

The factual allegations in the pleadings are legally sufficient to find the charge of use of, or addiction to the use of dangerous drugs **PROVED**. Id.

I find the facts alleged in the Complaint sufficient to warrant the suggested 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: USCG Sector Virginia, 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 21201-4022.

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.



Timothy G. Stueve
Administrative Law Judge
U.S. Coast Guard

Done and dated May 15, 2023, at
Alameda, California