

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

UNITED STATES COAST GUARD
Complainant

vs.

JASON EARL BURTON, JR.
Respondent

Docket Number 2023-0108
Enforcement Activity No. 7542588

DEFAULT ORDER
Issued: August 23, 2023

By Administrative Law Judge: Honorable George J. Jordan

Appearances:

Eric Bauer, Sr. Investigating Officer
Suspension and Revocation National Center of Expertise
For the Coast Guard

Jason Earl Burton, Jr., Pro se
For the Respondent

ORDER GRANTING COAST GUARD'S MOTION FOR DEFAULT ORDER

On March 15, 2023, the Coast Guard filed a Complaint against Jason Earl Burton, Jr. (Respondent), seeking Revocation of Respondent's Merchant Mariner Credential (MMC)

██████████. On April 13, 2023, the Senior Investigating Officer at United States Coast Guard Suspension and Revocation National Center of Expertise (S&R NCOE) filed a Motion for Default Order (the Motion) due to Respondent's failure to file an Answer to the Complaint. The Chief Administrative Law Judge assigned this Suspension and Revocation case to me on June 29, 2023, for adjudication of the Motion. I took the matter under advisement and conducted a complete review of the record in this case.

When the Coast Guard filed the Complaint with the Docketing Center on March 15, 2023, it served Respondent's copy at ██████████ E ██████████ ██████████, ██████████ using FedEx First Overnight shipping. The record establishes that a person of suitable age and discretion residing at that residence accepted service of the complaint on March 17, 2023, but did not subsequently file an Answer. Respondent also failed to file a response to the Motion. The Notice of Return of Service for the Motion dated April 17, 2023, shows Express Courier Service delivered to the Respondent's residence and signed by a person of suitable age and discretion residing at that residence on April 14, 2023.

Under Coast Guard procedural rules, service of complaints and default motions are treated differently than most other filings. See 33 C.F.R. § 20.304. The purpose of these requirements is to make sure a mariner is notified of any charges brought against his or her MMC, including suspension or revocation. Specifically, Table 20.304(g) describes when service of various types of documents is considered complete. For complaints and default motions served by certified mail or express courier, service is complete only when delivered to the

person's residence and signed for by either the respondent or another person of suitable age and discretion residing there. The rules also state, "If a person refuses to accept delivery of any document or fails to claim a properly addressed document other than a complaint sent under this subpart, the Coast Guard considers the document served anyway. Service is valid at the date and the time of mailing, of deposit with a contract service or express-courier service, or of refusal to accept delivery." 33 C.F.R. § 20.304(h). Additionally, "[e]ach party ... shall notify the Hearing Docket Clerk, the ALJ, and every other party or interested person, or her or his representative, of any change of address." 33 C.F.R. § 20.305(c).

Here, the Coast Guard properly served Respondent with the Complaint and Motion. As Respondent has neither filed an Answer nor availed Respondent of the opportunity to respond to the Motion, I find Respondent is in **DEFAULT**. A default constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing. See 33 C.F.R. § 20.310. Here the following facts have been deemed admitted:

I. **FACTUAL ALLEGATIONS**-Security Risk that poses a threat to the safety or security of a vessel or structure located within or adjacent to the marine environment.

1. On May 04, 2022, the Transportation Security Administration (TSA) determined Respondent does not meet the security threat assessment standards described in 49 C.F.R. § 1572.21(d)(3), and revoked Respondent's TWIC, in accordance with 49 C.F.R. § 1572.5(b).

2. Respondent is a security risk as described by 46 U.S.C. § 7703(5).

3. In aggravation: Respondent's ineligibility to hold a TWIC is proof Respondent is not eligible for an MMC, in accordance with 46 C.F.R. § § 10.101 and 10.235(h).

II. **FACTUAL ALLEGATIONS**-Conviction under National Driver
Registration Act.

1. On April 01, 2022, Respondent was convicted of violating Code of
Virginia § 18.2-266 – Driving While Intoxicated 2nd Within 5 Years, by the Chesterfield
Circuit Court.

2. Code of Virginia § 18.2-266, is an offense described or comparable to
those in 49 U.S.C. § 30304(a)(3)(A), as identified by 46 U.S.C. § 7703(3).

Upon review of the record, I find that the deemed admitted facts are sufficient to establish
that Respondent is a security risk as described by 46 U.S.C. § 7703(5) and is convicted of an
offense described by 46 U.S.C. § 7703(3). Accordingly, I find the allegations set forth in the
Complaint **PROVED**. Based on this finding, I also find the facts alleged in the Complaint as to
posing a security risk 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, Investigating Officer, Suspension and Revocation National Center of Expertise, 100 Forbes Drive, Martinsburg WV 25404-0001 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).

SO ORDERED.

Done and dated this August 23, 2023, at
Seattle, Washington.


George J. Jordan Administrative Law Judge United States Coast Guard