

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

UNITED STATES COAST GUARD,

Complainant,

vs.

PEDRO AMAYA,

Respondent.

**Docket Number 2023-0135
Enforcement Activity Number 7688833**

DEFAULT ORDER

By: Honorable Walter J. Brudzinski, Chief Administrative Law Judge

Issued: June 9, 2023

Appearances:

**ERIC A. BAUER
USCG Suspension and Revocation National Center of Expertise
For the Coast Guard**

**PEDRO AMAYA, *Pro se*
For the Respondent**

ORDER GRANTING COAST GUARD'S MOTION FOR DEFAULT ORDER

On April 5, 2023, the United States Coast Guard Suspension and Revocation National Center of Expertise (Coast Guard) filed a Complaint against PEDRO AMAYA (Respondent) seeking to revoke his Merchant Mariner Credential (MMC). The Coast Guard alleges Respondent is a security risk who poses a threat to the safety or security of a vessel or structure located within or adjacent to the marine environment, as described by 46 U.S.C. § 7703(5). The Coast Guard further alleges Respondent's conviction under the Texas Penal Code 22.02(a)(1), Aggravated Assault with a Deadly Weapon, would prevent the issuance or renewal of his MMC, as described by 46 U.S.C. § 7703(2).

Specifically, on June 3, 2022, the Transportation Security Administration (TSA) determined Respondent does not meet the security threat assessment standards described in 49 C.F.R. § 1572.5 and poses an imminent security threat in accordance with 49 C.F.R. § 1572.21(d)(3), thereby revoking his Transportation Worker Identification Credential (TWIC) in accordance with 49 C.F.R. § 1572.5(b). In aggravation, the Coast Guard argues, Respondent's ineligibility to possess a TWIC is proof he is not eligible for an MMC, in accordance with 46 C.F.R. §§ 10.101 and 10.235(h).

Further, the Coast Guard alleges Respondent violated 46 U.S.C. § 7703(2) for a conviction that would preclude the issuance or renewal of his MMC. Particularly, on February 2, 2022, the Texas 36th Judicial District Court convicted Respondent of violating Texas Penal Code, 22.02(a)(1), Aggravated Assault with a Deadly Weapon.

The Coast Guard filed its Return of Service for Complaint on April 10, 2023, indicating it served a copy of said Complaint to Respondent at his residence by express courier. A person of suitable age and discretion residing at the residence signed for the document on April 7, 2023. As

set forth in the Complaint, Respondent's Answer is due within 20 days of receipt in accordance with 33 C.F.R. § 20.308. Respondent's Answer was due no later than April 27, 2023.

To date, Respondent has neither filed an Answer nor requested an extension of time to file an Answer; therefore, the Coast Guard filed its Motion for Default Order (Default Motion) on May 4, 2023, requesting the Administrative Law Judge (ALJ) issue a Default Order against Respondent imposing the sanction asked for in the Complaint. The Coast Guard subsequently filed a Return of Service for the Default Motion showing it served a copy of said Default Motion to Respondent at his residence by express courier. A person of suitable age and discretion residing at the residence signed for the document on May 8, 2023.

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." Respondent's reply was due no later than May 30, 2023.¹ To date, Respondent has not filed his reply.

On June 7, 2023, the ALJ Docketing Center assigned this matter to me for review and adjudication. I have carefully reviewed this file and find that the applicable provisions of 33 C.F.R. §§ 20.310 and 20.304(d) and (h) have been complied with and Respondent is in **DEFAULT**. Under 33 C.F.R. § 20.310(c) a default constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing.

Accordingly, I find the violations alleged in the Complaint are **PROVED**. I have carefully reviewed the Complaint and the Default Motion and further find the proposed sanction of revocation is appropriate under the provisions of 46 C.F.R. § 5.569.

¹ The actual due date was May 28, 2023, which was a Sunday, and the following day, May 29, 2023, was a Federal holiday. 33 C.F.R. § 20.306(a)(2).

SANCTION

IT IS HEREBY ORDERED that Respondent PEDRO AMAYA's Merchant Mariner Credential is **REVOKED**.

IT IS FURTHER ORDERED that Respondent immediately surrender his MMC to the Investigating Officer at the United States Coast Guard Suspension and Revocation National Center of Expertise, 100 Forbes Drive, Martinsburg, WV 25404. If Respondent knowingly continues to use his MMC, he may be subject to criminal prosecution.

PLEASE TAKE NOTICE that under 33 C.F.R. § 20.310(e), for good cause shown, an Administrative Law Judge may set aside this finding of Default. Respondent may file a motion to set aside the finding with the ALJ Docketing Center, Baltimore, MD.

PLEASE TAKE FURTHER NOTICE that service of this Order upon Respondent serves to notify Respondent of his right to appeal as set forth in 33 C.F.R. §§ 20.1001 – 20.1004. (Attachment A).

Done and dated June 9, 2023
New York, NY

Walter J. Brudzinski

HON. WALTER J. BRUDZINSKI
CHIEF ADMINISTRATIVE LAW JUDGE
UNITED STATES COAST GUARD