

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

UNITED STATES COAST GUARD,

Complainant,

vs.

MARCUS ANTONIO WHITE,

Respondent,

**Docket Number: 2024-0121
Enforcement Activity Number: 7848332**

DEFAULT DECISION

Issued: September 6, 2024

By: George J. Jordan, Administrative Law Judge

Appearances:

**LT Meghan Palomba
For the Coast Guard**

**Marcus Antonio White, *Pro se*
For the Respondent**

This matter comes before me based on the United States Coast Guard's (Coast Guard) Motion for Default Order (Motion for Default). As of the date of this order, Marcus Antonio White (Respondent) has not replied to the Complaint nor the Motion for Default. Upon review of the record and pertinent authority, the allegations in the Complaint are **PROVED**.

On April 11, 2024, the Coast Guard issued a Complaint against Respondent seeking to revoke his Merchant Mariner Credential (MMC) for being a user of a dangerous drug in violation of 46 U.S.C. § 7704(b). Specifically, the Coast Guard alleges Respondent tested positive for cocaine metabolites as the result of a random drug test, pursuant to 46 C.F.R. Part 16.

The Coast Guard served the Complaint on Respondent via express service delivered to his place of residence and signed for by a person of suitable age and discretion residing at the residence on August 9, 2024. However, Respondent did not file an answer. On August 7, 2024, the Coast Guard then filed a Motion for Default served and signed by Respondent on August 9, 2024 via express courier service. To date, more than twenty days have passed from service of the Motion for Default and Respondent has neither filed an answer nor requested an extension of time to file an answer. 33 C.F.R. § 20.308(a).

As Respondent has not filed an answer nor asserted good cause for failing to do so, I find Respondent in **DEFAULT**. 33 C.F.R. § 20.310(a); Appeal Decision 2700 (THOMAS) (2012). A default constitutes an admission of all facts alleged in the Complaint and waiver of the right to hearing on those facts. 33 C.F.R. § 20.310(c). I find the following factual allegations in the Complaint **ADMITTED**:

1. On August 17, 2023, Respondent took a required random drug test pursuant to 46 C.F.R. Part 16.

2. A urine specimen was collected from Respondent by David Butziger onboard the vessel PAULA ATWELL moored in Elizabeth, NJ, in accordance with 49 C.F.R. Part 40.
3. Respondent signed a Federal Drug Testing Custody and Control Form for urine specimen ID #Y43772010.
4. Urine specimen ID #Y43772010 was received by and subsequently analyzed pursuant to 49 C.F.R. Part 40 by MedTox Laboratories, Inc., St. Paul, MN., A SAMHSA certified laboratory.
5. On August 24, 2023, urine specimen ID #Y43772010 tested positive for cocaine metabolites, as reported by MedTox Laboratories, Inc.
6. On August 28, 2023, Dr. Marcelo Perez-Montes, the Medical Review Officer, determined that Respondent failed a chemical test for dangerous drugs, raising the presumption of use established by 46 C.F.R. § 16.201(b).
7. Respondent has been a user of a dangerous drug, as described in 46 U.S.C. § 7704(b).

Upon finding Respondent in default, I must now issue a decision against him. 33 C.F.R. § 20.310(d). In reviewing the record, I find that the facts deemed admitted are sufficient to establish that Respondent is a user of a dangerous drug as outlined in 46 U.S.C. § 7704(b), 46 C.F.R. § 16.201(b), Appeal Decision 2556 (LINTON) (1994), Appeal Decision 2603 (HACKSTAFF) (1998), and Appeal Decision 2704 (FRANKS) (2014). Accordingly, I find Respondent is a user of a dangerous drug.

SANCTION

Having found Respondent in default and all allegations in the Complaint proved, I now must determine the appropriate sanction. 33 C.F.R. § 20.902(a)(2). While it is within the sole discretion of the Administrative Law Judge (ALJ) to determine the appropriate sanction at the conclusion of a case. Appeal Decision 2362 (ARNOLD) (1984). A proved allegation that a mariner is a of user of a dangerous drug carries a mandatory sanction of revocation of their MMC unless they can prove cure. 46 U.S.C. § 7704(b). The Coast

Guard proved Respondent is a user of dangerous drug, thus the only sanction to levy is revocation. Id.

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 [REDACTED] by mail, courier service, or in person to: LT Meghan Palomba, United States Coast Guard, 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 21202-4022.

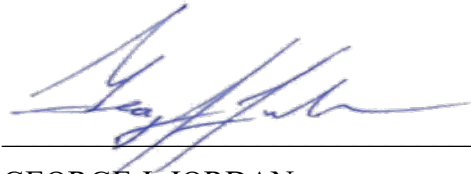
PLEASE TAKE NOTICE, within three (3) years or less, Respondent may file a motion to reopen this matter and seek modification of the order of revocation upon a showing that the

order of revocation is no longer valid, and the issuance of a new license, certificate, or document is compatible with the requirement of good discipline and safety at sea. See generally 33 C.F.R. § 20.904.

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, September 6, 2024,
Seattle, Washington

A handwritten signature in blue ink, appearing to read "G. Jordan", is written above a horizontal line.

GEORGE J. JORDAN
UNITED STATES COAST GUARD
ADMINISTRATIVE LAW JUDGE