

In the Matter of License No. 267677 and all other Seaman Documents
Issued to: WILLIAM R. GAVENDO

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1314

WILLIAM R. GAVENDO

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 9 November 1961, an Examiner of the United States Coast Guard at Baltimore, Maryland suspended Appellant's seaman documents for six months upon finding him guilty of misconduct. The two specifications found proved allege that while serving as Third Assistant Engineer on the United States SS MORMACPENN under authority of the license above described, on 27 September 1961, Appellant wrongfully left his place of duty in the engine room; on 3 October 1961, Appellant wrongfully failed to join his ship.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the first specification and guilty with an explanation to the alleged offense of failure to join.

The Investigating Officer introduced in evidence the testimony of the Chief Engineer and Chief Mate in addition to entries in the Official Logbook.

Appellant testified that he was guilty as indicated by the testimony of the two witnesses.

FINDINGS OF FACT

On 27 September and 3 October 1961, Appellant was serving as Third Assistant Engineer on the United States SS MORMACPENN and acting under authority of his license while the ship was on a foreign voyage.

On 27 September, Appellant was assigned to the 1600 to 2400 port watch in the engine room while the ship was at Reykjavik, Iceland. The port watches were required to be stood in the engine room except for one-half hour off for a meal and shorter periods of time for other necessities. Appellant was eating his meat at 1700 and then returned to the engine room. When the Chief Engineer went to the engine room about 1800, Appellant was not there. The Chief Engineer found Appellant in his room on his bunk at approximately 1820. The odor of alcohol was on his breath and an open bottle of whisky was on the desk. Appellant stated that he was just taking a rest. The Chief Engineer relieved Appellant of the balance of the watch.

On 3 October, the sailing board was posted for departure from Rotterdam, Netherlands at 2200. Appellant returned at 2145 and, shortly thereafter, left again after telling the gangway watch that he was going to make a telephone call. Appellant has not returned when the vessel left the dock at 2253. He rejoined the ship at another port.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the order is excessive because Appellant simply left the engine room for a short period during his watch and his failure to join was unintentional. It was prejudicial error to admit evidence with respect to the possession and use of intoxicating liquor since Appellant was not charged with either offense.

OPINION

The order is not considered to be excessive in view of the greater responsibilities of licensed officers than other members of the crew. Also, the matter of drinking while on watch was admissible as an aggravating circumstance of this offense.

As a result of each of these offenses, the ship was deprived of the services which Appellant had contracted to perform. Appellant's explanation, for failing to join, that other officers saw him leave the ship and did not call his attention to the fact that the ship was scheduled to leave soon is indicative of Appellant's lack of responsibility as a licensed officer. Appellant was not on board even though the ship did not leave until almost an hour after the posted sailing time.

ORDER

The order of the Examiner dated at Baltimore, Maryland, on 9 November 1961, is AFFIRMED.

A. C. Richmond
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 15th day of May 1962.

***** END OF DECISION NO. 1314 *****

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