

In the Matter of Certificate of Service No. C-203336
Issued to: PHILIP De PAZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

364

PHILIP De PAZ

On March 1, 1949, an Examiner of the United States Coast Guard entered an order revoking Certificate of Service No. C-203336, together with all other documents or certificates held by Philip De Paz, Z-137301. The order of the Examiner was issued after a finding that De Paz was guilty of the charge of misconduct, supported by nine specifications, five of which alluded to De Paz's actions while employed on the SS DOROTHY, and four of which alluded to De Paz's actions while employed aboard the SS FERDINAND WESTDAHL.

In substance, the specifications alleged Appellant, while employed on the SS DOROTHY, had failed to perform his assigned duties without due cause (1) on or about 27 September, 1946; (2) on or about 1 October, 1946; (3) on or about 2 October, 1946; (4) on or about 5 October, 1946; (5) that on or about 7 November, 1946, he struck one Richard Hanrath without provocation. While serving on the SS FERDINAND WESTDAHL he (6) on or about 18 November, 1947, attempted bodily harm with a fire ax to one Osborne, wiper; (7) on or about 21 November, 1947, attempted to steal a quantity of the vessel's blankets; (8) on or about 1 December, 1947, attempt to steal a quantity of the vessel's blankets; and (9) on or about 21, 24, 25, 26, 28 November, 1947, and on or about 1, 2, 3, 4 December,

1947, fail to perform his assigned duties without cause.

Appellant appeared as his own counsel and pleaded guilty to the second, third, fourth, seventh and eighth specifications and not guilty to the others. He entered no plea to the charge. Appellant, upon being advised of his right to remain silent, give testimony under oath, or to make a statement, elected to make a statement. This statement of the Appellant covered not only the offenses for which he had entered a plea of guilty, but also those offenses for which he had entered a plea of not guilty - except the striking of Hanrath. Upon the conclusion of the Appellant's statement, the Investigating Officer offered evidence in the form of logbook entries from the SS DOROTHY and the SS FERDINAND WESTDAHL to substantiate all specifications. No other corroborating evidence was introduced, nor were any other witnesses called by the Investigating Officer.

Upon the conclusion of the Investigating Officer's case, the Examiner found the charge and the nine supporting specifications proved.

The Examiner requested, and was furnished with the Appellant's prior record of offenses which included suspension for one month in August, 1943, for misconduct on the SS VIRGINIA DARE; two months' suspension in July, 1945, for misconduct on the SS CARLETON BROWN; and three months' suspension, with six months' probation in February, 1946, for misconduct on the SS HOWARD E. COFFIN. Thereafter, the Examiner entered an order of revocation.

From that order, this appeal has been taken and it is contended that the decision of the Examiner was unfair and deprives the Appellant of the opportunity to follow the only calling he knows.

OPINION

The record in this case reveals that the Appellant is a person who is given to the use of violence whenever such use seems justified to him. His explanation of the use of the fire ax as a means of intimidating Osborne is far-fetched. His admission of his two attempts to smuggle ashore vessel property is indicative of his utter disregard for the property of others. I find nothing in the

case which would justify my intervening further in the case or in the decision of the Examiner.

CONCLUSION AND ORDER

It is ordered and directed that the decision and order of the Coast Guard dated March 1, 1949, should be, and it is, AFFIRMED.

MERLIN O'NEILL
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 29th day of September, 1949.

***** END OF DECISION NO. 364 *****

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