

In the Matter of License No: 54550
Issued to: LOUIS GOVEN

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

464

LOUIS GOVEN

This appeal comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations Sec. 137.11-1.

On 12 July 1947 an Examiner of the United States Coast Guard at New York, N.Y. revoked License No. 54550 issued to Louis Goven upon finding him guilty of "misconduct" based upon one specification alleging in substance that while serving as licensed junior engineer on the American S.S. SPITFIRE, under authority of the document above described, on or about 25 December 1947 through 2 January 1948, he wrongfully failed to properly perform his duties because of intoxication while his ship was in the port of Manila, P.I.

Before the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. Although the hearing had been postponed to allow Appellant an opportunity to retain counsel of his own selection, he failed to appear on the date appointed, and the proceedings were conducted *in absentia* as permitted by current regulations. (46 C.F.R. 137.09-5(f)). A plea of "not guilty" was entered by the Examiner to the charge and specification.

The Investigating Officer introduced a certified copy of an excerpt from the official log, and the shipping articles, of the S.S. SPITFIRE for the voyage on which Appellant was employed.

At the conclusion of the hearing, the Examiner found the charge "proved" by proof of the specification and as it was disclosed that Appellant has been charged with misconduct on four earlier occasions, he entered an order revoking License No. 54550 and all other licenses, certificates and/or documents issued to Louis Goven.

From that order, this appeal has been taken on the grounds that:

1. The punishment is excessive for the offense;
2. Circumstances surrounding and provoking the incident should mitigate the punishment;
3. Appellant should not be totally deprived of a means of earning a living; and
4. He should be permitted to sail in an unlicensed capacity until he can show his competence to perform more responsible duties.

Based upon my examination of the Record submitted, I hereby make the following

FINDINGS OF FACT

On the 25 December 1947 through 2 January 1948, Appellant was employed under his license as junior engineer on the American S.S. SPITFIRE while said vessel was in the port of Manila, P.I.

Appellant failed to perform his duties aboard ship on those dates because of his intoxication.

OPINION

This is the fifth instance where disciplinary action based on "misconduct" has been taken against this seaman. I think the Examiner has very aptly stated the case in his opinion:

"It is perfectly obvious that this man does not have any interest in his calling. Furthermore, his lack of self control, demonstrated by these numerous hearings, indicates that he would be a definite hazard to life and property at sea. This man has forfeited his right to serve with that fine group of seamen which constitutes the American Merchant Marine."

CONCLUSION

No sound reason appears on this appeal for my intervention.

ORDER

The Order of the Examiner dated at New York, N.Y., on 13 July 1950 is AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C. this 29th day of September, 1950

***** END OF DECISION NO. 464 *****

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