

In the Matter of Merchant Mariner's Document No. Z-845249  
Issued to: JOHNIE BENJAMIN

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

703

JOHNIE BENJAMIN

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

On 13 August, 1953, an Examiner of the United States Coast Guard at San Francisco, California, suspended Merchant Mariner's Document No. Z-845249 issued to Johnie Benjamin upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as an ordinary seaman or messman on board the American M/V SCHUYLER under authority of the document above described, on or about 4 November, 1952, he failed to join his vessel at a foreign port; and on 23 February, 1953, he deserted his vessel at the foreign port of Sasebo, Japan.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant did not desire to make a statement in mitigation of the offenses.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by plea. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-845249, and all other valid licenses and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of six months.

From that order, this appeal has been taken, and it is urged that Appellant did not desert the ship as shown by his clothing having remained aboard the ship; the ship operators intend to return Appellant's wages for the voyage; Appellant did not know the procedure to represent himself at the hearing; and the order was too severe.

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

*FINDINGS OF FACT*

On or about 4 November, 1952, Appellant was in the service of the United States M/V SCHUYLER as an ordinary seaman acting under the authority of his Merchant Mariner's Document No. Z-845249. At this time, Appellant failed to join the SCHUYLER while she was in the port of Yokohama, Japan.

In January, 1953, Appellant rejoined the SCHUYLER as a messman acting under the authority of his document. On 23 February, 1953, Appellant deserted the ship at Sasebo, Japan.

There is no prior record of disciplinary action having been taken against Appellant's document.

*OPINION*

The points raised on appeal are not persuasive in view of Appellant's plea of "guilty" to both specifications. Appellant had ample opportunity at the hearing to obtain counsel, to plead "not guilty" or to offer matters in mitigation of the offenses. Since

both of these incidents occurred in foreign ports where it is usually more difficult to obtain replacements than in domestic ports the Order is not considered to be excessive.

*ORDER*

The Order of the Examiner dated at San Francisco, California, on 13 August, 1953, is AFFIRMED.

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

Dated at Washington, D. C., this 23rd day of October, 1953.

\*\*\*\*\* END OF DECISION NO. 703 \*\*\*\*\*

---

[Top](#)