

In the Matter of Merchant Mariner's Document No. Z-807917 and all
other Licenses, Certificates and Documents
Issued to: KAAPRE RATIA

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

838

KAAPRE RATIA

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

On 1 July 1954, an Examiner of the United States Coast Guard at Seattle, Washington, suspended Merchant Mariner's Document No. Z-807917 issued to Kaapre Ratia upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as an ordinary seaman on board the American SS SEAGATE under authority of the document above described, on or about 8 May 1954, while said vessel was at sea, he wrongfully failed to stand his watch between 1500 and 1600 by reason of alcoholic intoxication; and on 8 May 1954, he wrongfully created a disturbance while on board said vessel. Two other specifications were found not proved by the Examiner.

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. Appellant was represented by an attorney of his own selection and he entered a plea of "not guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of the Master, the Second Mate and the Third Mate of the SEAGATE.

In defense, Appellant offered in evidence his sworn testimony and that of a union patrolman who stated that Appellant had a good reputation as a seaman. Appellant testified that he went to the slop chest to get cigarettes on the day in question but he denied having a conversation with the Master and denied having been intoxicated. Appellant stated that he had obtained some medicine for his stomach-ache from the steward after being relieved at 1555; and that he was ready to obey commands between 1500 and 1600 while serving as stand-by on 8 May 1954.

At the conclusion of the hearing, after the Investigating Officer and Appellant's counsel waived the presentation of argument and the opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the two specifications. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-807917, and all other licenses, certificates and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of eight months including a prior six months probationary suspension.

From that order, this appeal has been taken, and it is urged that there is not sufficient and competent evidence to support the allegations in the specifications; Appellant was not intoxicated as alleged but he was ill; the alleged disturbance consisted merely of boisterous talk; Appellant has a good reputation as a seaman; and depriving Appellant of his livelihood for eight months on the basis of such misconduct appears to be much to severe.

APPEARANCE: Messrs. Kane and Spellman of Seattle, Washington,
by Joseph S. Kane, Esquire, of Counsel.

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

FINDINGS OF FACT

On 8 May 1954, Appellant was serving as an ordinary seaman on board the American SS SEAGATE and acting under authority of his Merchant Mariner's Document No. Z-807917 while the ship was at sea enroute from Honolulu to Formosa.

On this date, Appellant had the 1200 to 1600 stand-by watch. He was required to remain on deck or in the messhall where he could hear the hand whistle blown by the Mate on watch. This was a signal used to call the stand-by watch to the bridge.

At approximately 1530, Appellant approached the Master after he had opened the slop chest. Appellant was staggering, his eyes were bloodshot and his breath smelled of alcohol. Appellant addressed the Master in a loud and abusive voice stating that Appellant had trouble with the Coast Guard before and if anyone else tried to cause him trouble that person would get hurt even if he was the Master of the ship. The Master did not reply to Appellant and he left a few minutes later. In addition to the Master, the Third Mate also observed Appellant's condition at this time.

The Master then went to the bridge and told the Second Mate on watch to blow the whistle for the stand-by watch. The Second Mate did this but Appellant did not come to the bridge. The Master then relieved the Second Mate and sent him below to observe Appellant's condition. The Second Mate found Appellant in the crew's messhall at about 1555 and he still appeared to be intoxicated. When the Second Mate returned to the bridge, the Master ordered a search of the ship for intoxicating liquor.

At approximately 1715, the Chief Mate found a whiskey bottle containing a small amount of whiskey in Appellant's room and turned it over to the Master. At 1730, Appellant went to the bridge and demanded the return of his whiskey bottle. The Master ordered Appellant off the bridge and he eventually left but returned to the bridge on several occasions following this order to ask for his bottle. No physical force was used against Appellant since he was not violent.

Appellant's prior disciplinary record consists of an admonition in 1953 for failure to turn to and a six months

suspension on eighteen months probation in 1953 for assault and battery of a fellow crew member. Appellant testified that he had been sailing on American merchant vessels for five or six years.

OPINION

The testimony of the Master and the two ship's officers completely refutes Appellant's testimony and the contentions raised on appeal. The substantial weight of the evidence shows that Appellant was in an intoxicated condition during the latter part of his watch; this condition prevented Appellant from being capable of standing his watch; Appellant created a disturbance when he approached the Master of the slop chest; and Appellant created an additional disturbance each time he went to the bridge in an attempt to regain possession of his whiskey bottle. The offense of wrongfully creating a disturbance was aggravated by the fact that Appellant committed serious breaches of discipline by addressing the Master in threatening manner and later disobeying his order during the course of the alleged offense.

For these reasons, the order of the Examiner is not considered to be excessive despite the testimony as to Appellant's good reputation as a seaman and the personal hardship resulting from the eight months suspension.

ORDER

The order of the Examiner dated at Seattle, Washington, on 1 July 1954 is AFFIRMED.

J. A. Hirshfield
Vice Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D.C., this 28th day of October, 1955.

***** END OF DECISION NO. 838 *****

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