

In the Matter of Merchant Mariner's Document No. Z-552898-D2  
And All Other Licenses, Certificates and Documents  
Issued to: BERT G. KINNEAR

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

855

BERT G. KINNEAR

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.

By order dated 4 November 1955, an Examiner of the United States Coast Guard at Baltimore, Maryland, suspended Merchant Mariner's Document No. Z-552898-D4 issued to Bert G. Kinneare upon finding him guilty of misconduct based upon four specifications alleging in substance that while serving as a deck maintenance man on board the American SS AMERICAN EAGLE under authority of the document above described, on or about 10 October 1955, while said vessel was in the port of LaVerdon, France, he wrongfully failed to turn to and perform his duties due to the effects of intoxicating liquor; on or about 13 October 1955, while in the aforesaid port, he was unable to perform his duties from 1300 to 1700 due to the influence of intoxicating liquor; on or about 17 October 1955, while in the port of LaPollice, France, he failed to turn to and perform his duties; and on the latter date, he failed to join his vessel.

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 choice, 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 stated in mitigation that he had some personal problems and he "let them get the better of me." Appellant added that he would like to continue to go to sea.

At the conclusion of the hearing, the Examiner announced his decision and concluded that the charge and four specifications had been proved by plea. he then entered the order suspending Appellant's Merchant Mariner's Document No. Z-552898-D4, and all other licenses and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of five months. This order included a suspension of four months on eight months probation imposed on 18 March 1955.

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

#### *FINDINGS OF FACT*

On a foreign voyage including 10 October to 17 October 1955, inclusive, Appellant was serving as a deck maintenance man on board the American SS AMERICAN EAGLE and acting under authority of his Merchant Mariner's Document No. Z-552898-D4.

On 10 and 13 October 1955, the ship was in the port of LaVerdon, France. At various times on these two dates, Appellant failed to perform his duties due to the effects of intoxicating liquor.

On 17 October 1955, the ship was in the port of LaPollice, France. On this date, Appellant failed to perform his duties and he failed to join the ship upon her departure from this port.

Appellant's prior record during about eleven years at sea

consists of two admonitions and two probationary suspensions for the offenses of failure to turn to on two separate occasions, failure to join his ship once and absence over leave once.

*BASIS OF APPEAL*

This appeal has been taken from the order imposed by the Examiner. Appellant states that he rejoined his ship the day after he failed to join. He adds that he wishes to appeal on the ground of personal hardship since he partially supports his mother due to the recent of his father which emotionally upset Appellant and brought about these acts of misconduct. Appellant feels that his record as a seaman is a normal one and points out that he has already paid \$80.26 for these offenses as a result of having been logged for them.

Although Appellant's individual acts of misconduct do not appear to have been of a serious nature, he has been found guilty of committing four offenses within the eight-month probationary period imposed in March 1955. Due to the cumulative effect of these offenses, there has been no contention raised on appeal which would justify mitigation of the Examiner's order. In effect, Appellant only received an additional suspension of one month for the present four offenses. Therefore, the five months order of suspension will be sustained.

*ORDER*

The order of the Examiner dated at Baltimore, Maryland, on 4 November 1955 is AFFIRMED.

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

Dated at Washington, D. C., this 27th day of January, 1956.

10647 TREASURY, USCGHQ, WASH., D.C.

\*\*\*\*\* END OF DECISION NO. 855 \*\*\*\*\*

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[Top](#)