

In the Matter of Merchant Mariner's Document No. Z-81882 and all
other Seaman Documents
Issued to: EDWIN ANTLE

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1263

EDWIN ANTLE

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

By order dated 11 September 1959, an Examiner of the United States Coast Guard at New York, New York, suspended Appellant's seaman documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as a junior engineer on the United States SS SANTA ROSA under authority of the document above described, on 9 June 1959, Appellant failed to join his ship.

At the hearing, Appellant was not present but he was represented by counsel. A plea of not guilty to the charge and specification was entered on behalf of Appellant.

The Investigating Officer introduced in evidence the testimony of one witness. Counsel for Appellant did not submit any defense.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and specification had been

proved. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of six months including a prior four months' suspension on twelve months' probation.

The decision was not served until 18 January 1961 because Appellant did not leave an address, with the Coast Guard, where he could be reached.

FINDINGS OF FACT

On 9 June 1959, Appellant was serving as a junior engineer on the United States SS SANTA ROSA and acting under authority of his document while the ship was at Curacao, Netherlands Antilles. The sailing board was posted on arrival at 0800 for departure at 2000 on the same day.

At 1800, Appellant was ashore in a hotel sitting at a table with the ship's beautician. Appellant was not on board when the ship departed about 2000 as scheduled. He rejoined the ship at Aruba, Netherlands, Antilles.

Appellant's prior record consists of the four months' suspension on twelve months' probation in May 1959 for desertion in a foreign port on 15 February 1959.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that Appellant missed the ship as a result of domestic difficulties and this suspension creates a hardship on him.

Appellant did not sail for over a year after the hearing because he was working in Panama. Appellant was not notified as to the outcome of the hearing until he returned to New York after making one trip on a ship in January 1961.

OPINION

The Examiner's decision was mailed to Appellant at his present

address on 11 September 1959 after he did not appear on the fifth and final day of the hearing. The decision was returned undelivered and there was no way of contacting Appellant until he sailed again. Although Appellant knew that action was pending against his documents, he did nothing to determine the outcome of the hearing through his attorney or the Coast Guard. Since it was Appellant's fault that he was not served with the decision until January 1961, he must comply with the terms of the Examiner's order to surrender his documents to the Coast Guard for a period of six months.

Appellant's hardship and domestic troubles do not justify a modification of the order. This was the second offense of the same nature, within a period of six months, where Appellant disregarded his responsibilities and obligations under the Shipping Articles which he signed.

ORDER

The order of the Examiner dated at New York, New York, on 11 September 1959, is AFFIRMED.

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

Signed at Washington, D.C., this *11th* day of *October*, 1961.

***** END OF DECISION NO. 1263 *****

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