

In the Matter of Merchant Mariner's Document No. Z-734429-D1 and
all other Seaman Documents
Issued to: LEROY N. BROWN

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1329

LEROY N. BROWN

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

By order dated 17 May 1961, an Examiner of the United States Coast Guard at Baltimore, Maryland revoked Appellant's seaman documents upon finding him guilty of misconduct. The four specifications found proved allege that while serving as a fireman-watertender on board the United States SS MORMACHAWK under authority of the document above described, on 25 March 1961, Appellant used threatening and abusive language to the Third Assistant Engineer; on 25 March 1961, Appellant was unable to perform his duties due to intoxication; on 10 March and 6 April 1961, Appellant was absent from his duties without permission.

Appellant was not present at the hearing although he had received a weeks' notice of the time and place of the hearing; Appellant had indicated that he preferred to have the hearing in Baltimore rather than New York; and he agreed to the arrangements without qualification. Under the circumstances the hearing was conducted in absentia after the Examiner entered pleas of not

guilty to the charge and specifications on behalf of Appellant.

The Investigating Officer introduced in evidence a certified copy of extracts from the Shipping Articles of the MORMACHAWK for the dates in question and certified copies of entries in the ship's Official Logbook. These entries were made in compliance with 46 U. S. Code 702 and constitute substantial evidence in support of the offenses alleged. When given an opportunity to answer the log entries, Appellant did not attempt to explain or refute the offenses.

OPINION

On appeal, Appellant states that he was required to be in New York City for personal reasons on the date of the hearing and that he telephoned this information to the Investigating Officer at Baltimore.

This explanation is not satisfactory in view of the facts, as testified to by the Investigating Officer at the hearing, that Appellant agreed without qualification to the hearing at Baltimore on the specified date, after having been given the opportunity to have the hearing in New York City. Also, Appellant failed to deposit his document with the Coast Guard in New York, as a showing of good faith, when this was suggested by the Investigating Officer in Baltimore during his telephone conversation with Appellant on the day before the hearing.

The order of revocation is not considered to be harsh in view of the Appellant's very extensive record of similar offenses starting in 1949.

ORDER

The order of the Examiner dated at Baltimore, Maryland, on 17 May 1961, is AFFIRMED.

E. J. ROLAND
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 9th day of August 1962.

***** END OF DECISION NO. 1329 *****

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