

In the Matter of Merchant Mariner's Document No. Z-311512-D3 and
all other Seaman Documents
Issued to: Merritt R. Ketchum

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1375

Merritt R. Ketchum

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 18 October 1962, an Examiner of the United States Coast Guard at San Francisco, California, suspended Appellant's seaman documents for two months on twelve months' probation upon finding him guilty of misconduct. The three specifications found proved allege that while serving as the Boatswain on board the United States SS CHINA BEAR under authority of the document above described, during July, August and September 1962, Appellant wrongfully failed to perform his duties on two occasions and, at another time, was wrongfully absent from the ship during working hours.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence the testimony of the Chief Mate and entries in the ship's Official Logbook.

Appellant submitted no evidence other than his own testimony.

FINDINGS OF FACT

On the dates specified below, Appellant was serving as the Boatswain on the United States SS CHINA BEAR and acting under authority of his document. The regular working hours for the deck force, under the supervision of the Boatswain, were from 0800 to 1200 and 1300 to 1630 while the ship was in port.

While the ship was at San Francisco, California, on 24 July 1962, preparing for her maiden voyage, Appellant was not on board the ship until about 0900. He telephoned the Chief Mate at some time after 0800 and said he had been delayed by traffic.

At Yokohama on 22 August 1962, Appellant left the ship at 1330 for the balance of the afternoon without having obtained permission from the Chief Mate or anyone else in authority.

The ship was at Sagay, Negros Island, Philippines, on 4 September 1962, when Appellant slept beyond the end of the lunch hour at 1300. The Chief Mate found Appellant in his room at 1330 and awakened him.

Appellant has no prior record. He testified that he has been going to sea for about 20 years.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the delay due to traffic on 24 July was an unforeseeable circumstance; Appellant thought it was understood that he was authorized to take time off during normal working hours, as he did on 22 August, so long as the Chief Mate had the names of three men who were to work on deck each day from 1515 to 1630; the watch did not call Appellant at 1300 on 4 September as Appellant had requested.

None of the logbook entries concerning these incidents were made known to Appellant until the voyage was completed. It is believed that these matters were entered in the logbook in order to

get Appellant off the ship.

OPINION

Concerning the offenses on 24 July and 4 September, Appellant was not excused for being absent from his duty to supervise the working of the deck force under the direction of the Chief Mate. Lateness due to traffic and oversleeping during the day are matters for which Appellant must be held responsible since he could have avoided them by making allowance for the traffic and not sleeping during the lunch hour. With respect to the offense on 22 August, there is evidence that the Chief Mate agreed that all except three men on the deck force could stop work at 1500 each day, but there is no convincing evidence that Appellant was excused from following the usual procedure of obtaining permission from the Chief Mate to leave the ship prior to 1500 during the normal working hours in port. As stated by the Examiner, Appellant acted irresponsibly, in these instances, for a person serving in the supervisory capacity of Boatswain and the probationary suspension imposed would be inadequate except for Appellant's prior clear record.

What the purpose was for making the logbook entries pertaining to these three incidents is not material to the result in this case. Although the entries do not constitute a prima facie case since there is no indication that they were shown to Appellant to permit him to reply within reasonable time after each incident, there is substantial evidence to support the allegations without considering the logbook. The Chief Mate testified as to each offense and Appellant admitted he was not performing his duties at the times alleged.

ORDER

The order of the Examiner dated at San Francisco, California, on 18 October 1962, is AFFIRMED.

D. McG. MORRISON
Vice Admiral, United States Coast Guard
Acting Commandant

Signed at Washington, D. C., this 11th day of March 1963.

***** END OF DECISION NO. 1375 *****

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