

In the Matter of Merchant Mariner's Document No. Z-181570-D7 and
all other Seaman Documents
Issued to: James Henry Roddick

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1396

James Henry Roddick

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 11 December 1962, an Examiner of the United States Coast Guard at New York, New York suspended Appellant's seaman documents for six months outright plus three months on twelve months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as a wiper on board the United States SS CAPE ANN under authority of the document above described, on 10 July 1962, Appellant failed to perform his assigned duties. Two other specifications were dismissed.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and above specification.

The Investigating Officer introduced in evidence an abstract of the Shipping Articles and a log entry from the SS CAPE ANN.

APPEARANCE: Copper, Ostrin, DeVarco & Ackerman, Counsellors at Law, of New York, New York, by Robert A. Goodman, Esquire, on the brief for Appellant.

OPINION

The Examiner, basing his decision on Appellant's guilty plea, found the charge and specification proved. The sole point raised on appeal is that the order of the Examiner is excessive and not commensurate with the violation to which Appellant pleaded guilty.

It is noted that the Examiner's order includes a previous six-month suspension which had been placed on probation. This probation was violated by the instant offense. The Examiner declined to add an additional out-right suspension order which was within his prerogative to do. The six-month suspension then was based solely on the violation of the probation by Appellant and not on the instant offense. It follows that it cannot reasonably be argued that the Examiner's order is excessive or not commensurate with the allegation to which Appellant pleaded guilty.

ORDER

The order of the Examiner dated at New York, New York, on 11 December 1962, is AFFIRMED.

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

Signed at Washington, D. C., this 21st day of June 1963

***** END OF DECISION NO. 1396 *****

