

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT Z-502826-D8 AND ALL
OTHER SEAMAN'S DOCUMENTS
Issued to: Leonard WIGREN

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1685

Leonard WIGREN

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 5 April 1967, an Examiner of the United States Coast Guard at Philadelphia, Pa., suspended Appellant's seaman's documents for six months outright plus six months on eighteen months' probation upon finding him guilty of misconduct. The specifications found proved allege that while serving as an oiler on board the United States SS U. S. EXPLORER under authority of the document above described, Appellant:

(1) on or about 19 February 1967, at Manila, R. P., wrongfully had liquor in his possession aboard the vessel,

(2) on or about 26, 27 and 28 February and 1 March 1967, at Saigon, South Vietnam, wrongfully absented himself from the vessel and his duties, and

(3) on or about 15 March 1967, at Aden, Arabia, was unable to perform duties because of intoxication.

At the hearing, Appellant failed to appear. The Examiner entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence voyage records of U. S. EXPLORER.

Since Appellant did not appear, there was no defense.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and all specifications had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of six months outright plus six months on eighteen months' probation.

The entire decision was served on 20 April 1967. Appeal was timely filed on 26 April 1967 and perfected on 17 August 1967.

FINDINGS OF FACT

On all dates in question, Appellant was serving as an oiler on board the United States SS U. S. EXPLORER and acting under authority of his document.

On 19 February 1967, Appellant, despite a specific order of the master, purchased several bottles of liquor from a bumboat in Manila. The master observed this, went to Appellant's quarters, and confiscated the liquor.

From 26 February 1967 through 1 March 1967, Appellant was absent from the vessel and his duties without authority at Saigon, South Vietnam.

On 15 March 1967, at Aden, Arabia, Appellant was unable to perform his duties between 1600 and 2000 because of intoxication.

BASES OF APPEAL

This appeal has been taken from the order imposed by the

Examiner. It is urged that Appellant is entitled to at least one dismissal of charges.

APPEARANCE: Appellant, *pro se*

OPINION

Appellant's rather unusual grounds for appeal cannot be understood except in light of his prior record.

On 21 October 1957, at Portland, Ore., he received an order of suspension of six months on ten months' probation for failure to report for duties and for failure to join SS NORTH PLATTE.

On 21 August 1958, at Seattle, he received an order of suspension of six months on twelve months' probation for failure to join MISSION SAN FRANCISCO. (A violation of probation seems to have been involved here but for some reason no effective suspension was ordered.)

On 23 July 1963, at Long Beach, Calif., he was ordered suspended for three months outright, plus six months on twelve months' probation for failure to perform duties and failure to join GOLDEN STATE.

On 1 July 1966, at San Francisco, Calif., he was ordered suspended for three months for failure to perform duties because of intoxication aboard GOPHER STATE.

On 30 September 1966, again at San Francisco, he was ordered suspended for another three months for failure to perform duties aboard STEEL DESIGNER.

Now, on 5 April 1967, he has been ordered suspended again.

Appellant's theory would seem to be that if he is brought up on charges of misconduct six times either equity or probability should dispense him one dismissal of charges. Unfortunately for him, examiners are bound to make their decisions on the evidence submitted to them on the record.

Substantial evidence in the form of vessel's voyage records was the basis of the Examiner's findings in this case. When he found that the charges were proved (R-5), he was unaware of Appellant's prior record. Under the circumstances he could not dismiss the charges, because the evidence presented to him clearly called for the findings of "proved."

CONCLUSION

The findings of the Examiner are based upon substantial evidence. The order of the Examiner was relatively lenient as to outright suspension, and, as to the further probation, may induce Appellant to avoid future tempting of fate. There is no reason to disturb either.

ORDER

The order of the Examiner dated at Philadelphia, Pa. on 5 April 1967, is AFFIRMED.

P. E. TRIMBLE
Vice Admiral, U. S. Coast Guard
Acting Commandant

Signed at Washington, D. C., this 15th day of March 1968.

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