

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-1082867-D1 AND
ALL OTHER SEAMAN'S DOCUMENT
Issued to: Joseph James NEMECEK

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1695

Joseph James NEMECEK

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 date 26 January 1967, an Examiner of the United States Coast Guard at New Orleans, La., suspended Appellant's seaman's documents for two months, upon finding him guilty of misconduct. The specifications found proved allege that while serving as a fireman/watertender on board the United States SS WILD RANGER under authority of the document above described, Appellant:

(1) on or about 27 October 1966, wrongfully failed to perform duties at Saigon, Vietnam, because of intoxication;

(2) on or about 28 October 1966, wrongfully absented himself from the vessel and his duties at Saigon; and

(3) from 4 through 8 November 1966, wrongfully failed to perform duties at Qui Nhon, Vietnam.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence records of WILD RANGER.

In defense, Appellant offered in evidence his own testimony.

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 served a written order on Appellant suspending all documents issued to him for two months.

The entire decision was served on 26 January 1967. Appeal was timely filed on the same date.

FINDINGS OF FACT

On all dates in question, Appellant was serving as a fireman/watertender on board the United States WILD RANGER and acting under authority of his document.

On 27 October 1966, Appellant wrongfully fail to perform his duties at Saigon, South Vietnam, because of intoxication.

On 28 October 1966, Appellant wrongfully absented himself from the vessel and his duties at Saigon.

From 4 through 8 November 1966, Appellant wrongfully failed to perform duties at Qui Nhon, South Vietnam.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged only that the chief engineer was prejudiced against Appellant.

APPEARANCE: Appellant, *pro se*

OPINION

Appellant implies that prejudice on the part of the chief engineer led him to lodge false complaints against him.

As to the offense of 27 October 1966, Appellant admitted at hearing that the chief engineer and the oiler found him in his room when he was supposed to have been on watch. Appellant denied that he was drunk but admitted having been drinking.

As to the offense of 28 October 1966, the master himself was a witness.

The chief engineer's testimony or attitude had nothing to do with the period 4-8 November 1966.

If the chief engineer was prejudiced against Appellant, the only result was that it led him to detect Appellant in offenses. The offenses themselves were proved by substantial evidence.

ORDER

The order of the Examiner dated at New Orleans, La., on 26 Jan 1967, is AFFIRMED.

W.J. SMITH
Admiral, U.S. Coast Guard
Commandant

Signed at Washington, D.C., this 1st day of April 1968.

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Bias and Prejudice

not material when possible bias led only to detection of offenses

Witnesses

prejudice not shown

***** END OF DECISION NO. 1695 *****

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