

In the Matter of Merchant Mariner's Document No: Z-340225-D1  
Issued to: WILLIAM FREDERICK SCOTT

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

478

WILLIAM FREDERICK SCOTT

This appeal comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations Sec. 137.11-1.

On 27 October, 1950, an Examiner of the United States Coast Guard at New York City, suspended Merchant Mariner's Document No. Z-340225-D1 issued to William Frederick Scott upon finding him guilty of "misconduct" based upon three specifications alleging in substance, that while serving as able seaman on board the American S.S. SAN JOSE, under authority of the document above described, on or about 31 August, 1950, and 1 September, 1950, he wrongfully failed to stand his 1200 to 1600 watch and his 2400 to 0400 watch, on the respective dates, while said vessel was at Golfito, Costa Rica; and on 12 September, 1950, he wrongfully failed to join said vessel at sailing time from Seattle, Washington.

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. Although advised of his right to be represented by counsel of his own selection, he elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and each specification.

Thereupon, the Investigating Officer made his opening statement reciting the results of his investigation and Appellant made a statement not under oath.

At the conclusion of the hearing, having heard the statements of the Investigating Officer and Appellant, the Examiner found the charge "proved" by plea and entered an order suspending Merchant Mariner's Document No. Z-340225-D1, and all other valid documents, licenses, certificates and endorsements held by Appellant, for a period of one year; the first six months outright to run concurrently with the six months probationary suspension ordered 20 December, 1949, in Case No. 628-41063. The last six months of said suspension shall be on eighteen months probation from completion of the six months outright suspension.

From that order, this appeal has been taken, and it is urged by Appellant (1) that the six-month suspension in view of the offenses is unduly severe; (2) that such suspension will create a hardship on his wife and daughter; (3) that the loss of pay as a result of the logging is sufficient punishment; and (4) that his forcible detention by the police at Seattle prevented him from joining the vessel at sailing time.

Based upon my examination of the Record submitted, I hereby make the following

#### *FINDINGS OF FACT*

On a foreign voyage covering the dates of 31 August, 1950 to 12 September, 1950, Appellant was in the service of the American S. S. SAN JOSE, under authority of Merchant Mariner's Document No. Z-340225-D1, acting in the capacity of an able seaman.

On 31 August, 1950, while the SAN JOSE was in the port of Golfito, Costa Rica, Appellant was assigned to stand a 1200 to 1600 watch. During this period of time, Appellant was absent from the ship without permission and, consequently, he did not stand his watch. Later that same day, Appellant returned to the ship and then went ashore on regular liberty but failed to return to the ship in time to stand his 2400 to 0400 watch on 1 September, 1950.

On 12 September, 1950, while the SAN JOSE was at Seattle, Washington, Appellant went on authorized shore leave about 0800 to drink some beer. After he had departed from the place where he had been drinking beer, he was apprehended by the police and held, incommunicado, overnight on a charge of intoxication. By the time Appellant was released the next morning, the SAN JOSE had sailed.

Appellant's prior record consisted of an admonition in Miami, Florida, on 31 January, 1948, for absence without leave. It was also disclosed that Appellant was presently on probationary suspension. His document was suspended for six months on twelve months probation on 20 December, 1949, for the offenses of twice failing to join; unable to perform duties due to intoxication, and desertion. The order issued on 20 December, 1949, stated that the six months suspension should become effective if the probation was violated.

Appellant is married, having one daughter, and he has been going to sea for ten years.

#### OPINION

In view of Appellant's record within the last year, it does not seem that the order imposed is unduly severe or harsh. The purpose of these orders is not to create hardships or to inflict punishments for past actions but they are remedial sanctions to protect the many followers of the sea on American merchant marine vessels as well as for the safety of the ships themselves and their cargoes. When a seaman shirks his duties on his ship by being absent from the ship, or otherwise, it is an infraction of the rigid discipline which must be maintained on shipboard in order to minimize the many perils of the sea. There is also the possibility that the seaworthiness of the vessel may be affected if crew members fail to join and replacements are not immediately available. Even if others can be obtained, the sailing of the ship might be delayed.

Reminders of these factors are sometimes required in the form of suspensions so that the seaman is more likely to consider them in the future and not impair the operation and discipline of the ships on which he sails. In this case, a probationary suspension

apparently was not persuasive enough to cause Appellant to keep these considerations in mind. Among other offenses, he has been found guilty within less than a year of having failed to join his vessel three times and deserting his ship once. This indicates that the reminder this time must be a little stronger. Hence, it is my opinion that the six months outright suspension is necessary despite any hardship that it might cause Appellant and his family.

The significance of these offenses must be effectively impressed on seamen so that they will not repeat such conduct and, as a result, it will continue to be regarded as a privilege to sail on American merchant vessels.

*ORDER*

The Order of the Examiner dated 27 October, 1950, should be, and it is AFFIRMED.

Merlin O'Neill  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D.C. this 15th day of December, 1950.

\*\*\*\*\* END OF DECISION NO. 478 \*\*\*\*\*

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