

In the Matter of Merchant Mariner's Document No. Z-593402-D4
Issued to: RAMON ORFILA VIVES

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

725

RAMON ORFILA VIVES

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 4 June, 1953, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-569402-D4 issued to Ramon Orfila Vives upon finding him guilty of incompetence based upon two specifications alleging in substance that while serving as a messman on board the American SS UNITED STATES under authority of the document above described, on or about October, 1952 and on 13 May, 1953, he was unfit for sea duty by reason of being a chronic alcohol addict (First Specification) and by reason of having a psychopathic personality (Second Specification).

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence a certified copy of the Clinical Record of Appellant at the United States Public Health Service Hospital at Stapleton, Staten Island, New York. This report states that Appellant was discharged from the hospital on 28 July, 1952, as an alcohol addict with an anti-social psychopathic personality; and that he was not fit for duty.

On motion by the Investigating Officer, the hearing was adjourned in order to direct Appellant to submit to another physical examination to determine his present condition.

Appellant was again examined at the Stapleton Hospital but he did not subsequently put in an appearance at the hearing and the proceedings were conducted in absentia. The Investigating Officer introduced in evidence the supplemental report, dated 29 May, 1953, of the Stapleton Hospital which diagnosed Appellant's condition as chronic alcohol addiction and anti-social personality.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by proof of the two specifications. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-593402-D4 and all other licenses, certificates, endorsements and documents issued to this Appellant.

From that order, this appeal has been taken, and it is urged that Appellant had not recently received a thorough examination at a Public Health Service Hospital; he had not been addicted to alcohol since the examination at a Public Health Service Hospital in October, 1952; he has been sailing since the latter time and his service has been satisfactory. Appellant requests that the decision be reversed or that the hearing be reopened so that he may submit to an examination at a Public Health Service Hospital in order to prove that he is neither a chronic alcoholic nor a psychopath; and that he is physically and mentally fit for sea duty.

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

FINDINGS OF FACT

In October, 1952, Appellant was serving as a messman on board the American SS UNITED STATES and acting under authority of his Merchant Mariner's Document No. Z-593402-D4.

Prior to this date, Appellant had been admitted to the Public Health Service Hospital at Stapleton on 17 July, 1952, after he collapsed in an alcoholic stupor on board a Staten Island ferryboat. Appellant had previously been admitted to this hospital for acute alcoholism on numerous occasions. His condition was diagnosed as acute alcoholic intoxication with chronic alcohol addiction, scabies, and anti-social personality (psychopath). Appellant was discharged from the hospital on 28 July, 1952. At this time, the alcoholic addiction and psychopathic personality conditions remained unchanged.

The next time Appellant was examined was at the Stapleton Hospital on 29 May, 1953. His condition was again diagnosed as chronic alcohol addiction and anti-social personality. The record does not contain evidence of any subsequent examination.

OPINION

The statements, in the first medical report, that Appellant was hospitalized for acute alcoholism on numerous occasions and that he was an alcohol addict are sufficient evidence to support the conclusion that Appellant was not fit for sea duty when he was discharged from the Stapleton Hospital on 28 July, 1952. but this report, in itself, is not adequate to prove the allegation that Appellant was still unfit for sea duty because of such addiction while he was serving on the SS UNITED STATES in October, 1952, or at any later date. And there is no factual evidence, in this report, which justifies the conclusion that Appellant was incompetent to perform sea duty because of a psychopathic personality.

The later medical report dated 29 May, 1953, does not supply the deficiency in proof as to incompetence at a later date than 28 July, 1952, since it does not relate any independent facts as the

bases for its conclusion that Appellant was not fit for sea duty in October, 1952, or on 29 May, 1953. This later report does not disclose that its diagnoses were based upon anything other than the diagnoses contained in the first medical report. The perfunctory nature of any examination which might have been conducted is also indicated by the fact that the examination was completed in one day. This is in sharp contrast with the first report which states that Appellant was hospitalized for twelve days.

ORDER

The order of the Examiner dated at New York, New York, on 4 June, 1953, is VACATED, SET ASIDE and REVERSED. The charge and specification are hereby DISMISSED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 7th day of July, 1954.

***** END OF DECISION NO. 725 *****

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