

In the Matter of Merchant Mariner's Document No. Z-19336-D5 and All
Other Licenses, Certificates and Documents
Issued to: WILBERT VEWSON GUYSE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

853

WILBERT VENSON GUYSE

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 19 July 1955, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-19336-D5 issued to Wilbert Venson Guyse upon finding him guilty of misconduct based upon five specifications alleging in substance that while serving as Second Cook on board the American SS CHRYSS JANE under authority of the document above described, on or about 12 November 1954, while said vessel was in the port of Sasebo, Japan, he failed to perform his regular duties due to intoxication (First Specification); on or about 9 December 1954, while at sea, he refused to obey orders to remain in the ship's hospital (Fifth Specification; on or about 29 December 1954, while at sea, he failed to perform his regular duties (Seventh Specification) due to intoxication (Sixth Specification); and on or about 26 December 1954, while his vessel was in the port of Yokohama, Japan, he failed to perform his regular duties (Eight specification). The Second, Third and Fourth Specifications were found not proved and dismissed by Examiner.

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 choice, 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, at a later date, introduced in evidence the depositions of the Master and Chief Steward of the CHRYSS JANE. The depositions were taken on 23 June 1955 while the ship was at Houston, Texas. Log entries were also received in evidence.

In defense, Appellant offered in evidence his sworn testimony. He recited many acts of his mistreatment by the Master of the ship and referred to other matters which are substantially covered in Appellant's appeal.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his decision and concluded that the charge and 5 specifications had been proved. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-19336-D5 and all other documents and licenses issued to Appellant by the United States Coast Guard or its predecessor authority.

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

FINDINGS OF FACT

On the dates indicated below, Appellant was serving as Second Cook on board the American SS CHRYSS JANE and acting under authority of his Merchant Mariner's Document No. Z-19336-D5 while the ship was on a foreign voyage.

While the ship was at Sasebo, Japan, on 12 November 1954,

Appellant was in an intoxicated condition and did not perform his regular duties.

While the ship was at sea on 9 December 1954, the Master ordered Appellant confined to the ship's hospital and ordered Appellant to remain in the hospital. This action was taken because Appellant was under the influence of intoxicating liquor. After Appellant escaped from the hospital two times, he was put in a spare room and a guard was stationed with Appellant.

The ship was at Yokohama, Japan, on 26 December 1954 and at sea on 29 December 1954. On both dates, Appellant failed to perform his regular duties. On the latter date, Appellant was under the influence of intoxicating beverages.

On 5th February 1955, while the ship was at Sasebo, Japan, Appellant was removed from the ship for medical reasons. Upon his return to the United States, he was hospitalized. This was the result of injuries from an accident which he insisted, at the hearing, occurred on 28 January 1955 (R. 24, 29, 30).

Appellant's prior record consists of failing to perform duties and intoxication on three different ships; disobedience of orders; physical incompetence; creating a disturbance; waste of food; theft of stores; and signing for stores not delivered to his vessel.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that he was repeatedly abused by the Master and the Chief Steward. The Master forced Appellant to work after he had been seriously injured on 28 December 1954; the Master often put Appellant in the ship's hospital without food or water for 24 hours at a time; Appellant was finally released from the ship when he was examined by a U. S. Navy doctor at Sasebo, Japan, on 5 February 1955; Appellant was hospitalized upon his return to the United States; and the shipowner paid Appellant a settlement of \$2200.

Another point raised by Appellant is that the log entries (in evidence) are false and were made by the Master after Appellant left the ship. Appellant claims that none of these entries were

ever read to him and he was never given a copy of any of them.

Appellant states that he was the union chairman on the ship; the Master was reported by the crew to U. S. Consuls on two or three occasions during the voyage; war injuries to the nerves in Appellant's face make him look dizzy or drunk; and this order of revocation will cause Appellant to be deprived of all union benefits after his lengthy sea service of 30 years.

Appellant contends that he was not given a fair hearing because the false accusations contained in the depositions of the Master and Chief Steward were used against Appellant. He requests an investigation of the case by the Government and that he be permitted to obtain the testimony of former crew members.

OPINION

The testimony of the Master and the Chief Steward is mutually corroborative as to the facts as found above. Hence, there is no need to utilize the incomplete log entries in order to establish the proof of the specifications by substantial evidence. There is nothing in the record to support Appellant's claim that the log entries are false.

Appellant's record shows a consistent pattern of behavior of failing to carry out the duties for which he has made binding contracts to perform when signing Shipping Articles to serve in specific capacities. Usually, this conduct has resulted from Appellant's use of intoxicating beverages. In fact, these present offenses violate the probation on which Appellant was placed in March 1954 for two offenses of being unfit to perform duties due to intoxication.

Although Appellant contends, on appeal, that he received fractured ribs on 28 December 1954, he repeatedly testified, at the hearing, that he was injured on 28 January 1955. The latter date seems much more logical since a seaman injured as seriously as Appellant proclaims he was would be much more of a hindrance than a help on board ship. No reason appears in the record as to why the Master would have kept Appellant on board for more than a month in such a helpless condition. If the injury did not occur until January 1955, then it is not relevant to these alleged offenses in

1954.

There is no evidence in the record to support Appellant's claim that he was grossly mistreated on the ship and that the contents of the two depositions are not true. In his appeal, Appellant states that he was similarly framed and persecuted on various other ships. Some points mentioned on appeal are irrelevant to the issues in this case.

Appellant was repeatedly advised of his right to obtain the testimony of witnesses but he stated that he did not need any witnesses. Appellant declined to retain counsel although he was acquainted with the lawyer who had acted for Appellant in his claim against the shipowner as a result of Appellant's injuries. It is my opinion that Appellant was given every opportunity to present evidence in his behalf and that he was given a fair hearing. For these reasons, Appellant's request for a further investigation will not be granted.

Appellant has demonstrated that he is untrustworthy to perform ordinary duties on board ship. The need to maintain discipline on merchant vessels of the United States impels me to sustain the order of revocation.

ORDER

The order of the Examiner dated at New York, New York, on 19 July 1955 is AFFIRMED.

J. A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 19th day of January, 1956.

***** END OF DECISION NO. 853 *****

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