

In the Matter of Merchant Mariner's Document No. Z-863196
Issued to: HARRY G. PEEK, JR.

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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HARRY G. PEEK, JR.

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.

On 19 March, 1951, an Examiner of the United States Coast Guard at New Orleans, Louisiana, suspended Merchant Mariner's Document No. Z-863196 issued to Harry G. Peek, Jr. upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as messman on board the American SS CARROLL VICTORY under authority of the document above described, on or about 7 to 12 December, 1950, while said vessel was in a foreign port, he was unable to perform his duties by reason of being under the influence of alcohol, pentobarbital and phenobarbital.

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 an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer and Appellant made statements; the Investigating Officer explained the circumstances upon which the charge was based; Appellant, while denying drug addiction, admitted the facts stated in the specification.

In defense, Appellant offered in evidence the testimony of two witnesses who vouched for his good character over a period of the preceding four years, on the occasions when he stayed ashore between voyages.

At the conclusion of the hearing, having given both Appellant and the Investigating Officer an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order suspending Appellant's Merchant Mariner's Document No. Z-863196 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority for a period of twelve (12) months; the first six (6) months to become effective immediately, and the remaining six (6) months shall not become effective provided no charges under R.S. 4450, as amended, are proved against him for acts committed within eighteen (18) months of 16 March, 1951.

From that order, this appeal has been taken, and it is urged:

1. Appellant has never before been guilty of such an offense;
2. Appellant has never been before the Coast Guard or military authorities for misconduct;
3. Appellant has made his living as a merchant seaman since January, 1947; and
4. Appellant has fully realized and repented his misconduct; he gives his word of honor that his future conduct in the merchant service will be honorable and above reproach.

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

FINDINGS OF FACT

On dates between 7 and 12 December, 1950, Appellant was serving as messman on board the American SS CARROLL VICTORY and acting under authority of his Merchant Mariner's Document No. Z-863196.

While his vessel was in the port of Bangkok, Siam, Appellant came aboard in an intoxicated condition, and took several phenobarbital tablets to quiet his nerves. Such tablets were readily obtainable aboard, and for several days after the 7th of December, Appellant was under the influence of phenobarbital and pentobarbital. His condition prevented him from performing his routine duties.

There is no allegation or evidence that Appellant is addicted to the use of drugs or narcotics.

OPINION

The charge and specification were proved by Appellant's admission of guilt. I am, however, inclined to believe Appellant's penitence is sincere; and since his involvement does not concern drugs, the association with which makes revocation imperative (narcotics), I direct modification of the Examiner's Order as follows:

ORDER

That Merchant Mariner's Document No. Z-863196 issued to Harry G. Peek, Jr. and all other valid licenses, certificates of service and/or merchant mariner's documents be and the same are suspended for a period of twelve (12) months. The first three months shall become effective immediately; the remaining nine (9) months shall not become effective provided no charges under R.S. 4450, as amended, are found proved against him for acts committed within 18 months of 16 March, 1951.

As so MODIFIED, the Examiner's Order dated 19 March, 1951, is AFFIRMED.

A. C. RICHMOND
Rear Admiral, United States Coast Guard

Acting Commandant

Dated at Washington, D. C., this 1st day of June, 1951.