

In the Matter of License No. 61221 Merchant Mariner's Document No. Z-390381-D1  
Issued to: RICHARD H. BEARD

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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RICHARD H. BEARD

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 2 January, 1953, an Examiner of the United States Coast Guard at New York, N.Y., suspended License No. 61221 and Merchant Mariner's Document No. Z-390381-D1 issued to Richard H. Beard upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as Third Mate on board the American SS SEAGLORIUS under authority of the document above described, on or about 14 August, 1952, while said vessel was in the port of Curacao, N.W.I., he did wrongfully remain absent from the vessel after the expiration of shore leave, thereby delaying the sailing of the vessel; and, on or about 10 September, 1952, while said vessel was in the aforesaid port, he did wrongfully fail to join the vessel.

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 each specification proffered against him.

Thereupon, the Investigating Officer and Appellant made their statements.

At the conclusion of the hearing, both parties having waived arguments and the right to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea. He then entered the order suspending Appellant's License No. 61221 and Merchant Mariner's Document No. Z-390381-D1, 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 four months; the first two months outright and the last two months suspended for a probationary period of six months from March 2, 1953.

From that order, this appeal has been taken, and it is urged that clemency be granted and that, since the offense alleged was as an officer under license, the Appellant's Merchant Mariner's Document should not have been suspended also.

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

FINDINGS OF FACT

On 14 August, 1952, and 10 September, 1952, Appellant was serving as Third Mate on board the American SS SEAGLORIUS and acting under authority of his License No. 61221; and while the said vessel was in the port of Curacao, N.W.I., on 14 August, 1952, he did wrongfully remain absent from the vessel after expiration of shore leave, thereby delaying sailing of the vessel and on 10 September, 1952, he did wrongfully fail to join the vessel.

OPINION

Appellant entered a plea of guilty and the entire Record consists of material in explanation and mitigation that supports the plea of guilty. It clearly shows that on these instances the Appellant disregarded his responsibilities undertaken by signing articles as a licensed officer. Officers are presumed to have the quality of leadership and the capacity and intelligence to be proper examples to nonlicensed personnel. Misconduct by officers, such as displayed here, is viewed more seriously than similar acts of unlicensed personnel, for it undermines that leadership and indicates a disregard of that responsibility.

This does not, however, make valid the contention of Appellant that since the offense was committed as an officer under license, only the license and not the Merchant Mariner's Document should be proceeded against. The offense here was misconduct and of such a nature that it is also violative of the normal requirements of nonlicensed persons and justifies action against the Merchant Mariner's Document also.

CONCLUSION AND ORDER

That the Order of the Examiner dated 2 January, 1953, at New York, N.Y., is affirmed with the modifications that any incompleted portion of the two months' outright suspension ordered thereby shall be effective upon the date of receipt of this decision and that the six months' probationary period shall commence at the termination of the two months' outright suspension. As so MODIFIED, said Order is AFFIRMED.

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

Dated at Washington, D.C., this 2nd day of July, 1953.