

In the Matter of License No. 48884
Issued to: GERMANO BYRON ZOLLO

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

844

GERMANO BYRON ZOLLO

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 24 August 1955, an Examiner of the United States Coast Guard at Port Arthur, Texas, revoked License No. 48884 issued to Germano Byron Zollo upon finding him guilty of misconduct based upon a specification alleging in substance that on or about 17 May 1955, he wrongfully altered his duly issued license to indicate authority to serve as Chief Engineer of motor vessels.

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 "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence, without objection, a copy of the record of the preliminary investigation.

Appellant did not present any evidence in mitigation in addition to his testimony at the investigation in which Appellant stated that the alteration was made to assist him in attempting to obtain a job ashore but the job did not materialize. Appellant stated that he never used the license to apply for a position as an engineer on a motor vessel.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by plea to the specification. He then entered the order revoking Appellant's License No. 48884 and all other licenses issued to Appellant by the United States Coast Guard or its predecessor authority.

This appeal is in the nature of a request for clemency. Appellant states that he had no intention of ever using the altered

license to serve as a diesel engineer on a ship; the alteration was made solely for the purpose of obtaining a job ashore as a diesel engineer because Appellant's wife was seriously ill; Appellant was qualified for the ashore job as shown by his expired Third Assistant Engineer's License of motor vessels; and he believes the order of revocation is unduly severe. In conclusion, Appellant request leniency in that the order be modified to a suspension for any length of time on probation.

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

FINDINGS OF FACT

ON 2 March 1951, Appellant was issued License No. 48884 which authorized him to serve as Chief Engineer of steam vessels of any horsepower.

In May 1955, Appellant added the words "and also of motor vessels" to his License No. 48884.

On 26 July 1955, Appellant voluntarily surrendered his license to a Coast Guard Investigating Officer at the time of the preliminary investigation.

Appellant has been serving on Merchant Marine vessels since 1929 and has no prior record. The Hearing Examiner did not take any action against Appellant's Merchant Mariner's Document No. Z-316129-D1 in view of his prior clear record.

OPINION

Appellant has pleaded guilty to the offense of wrongfully altering his license as Chief Engineer of steam vessels. Title 18 United States Code 2197 makes it unlawful to alter any such license issued by authorized officers or employees of the United States. Although there is no evidence in this record that Appellant attempted to use his altered license to obtain employment on a motor vessel, he was guilty of this statutory offense regardless of his purpose in altering the license or his intentions with respect to the use of it. Appellant's previous qualifications as a Third Assistant Engineer of motor vessels are not indicative of Appellant's present qualifications to serve as a Chief Engineer of motor vessels. If offenses of this nature were not dealt with by the imposition of severe orders, many other seamen would be encouraged to follow the same procedure as did Appellant.

The order of revocation will be sustained. Nevertheless, in view of Appellant's long unblemished service, he may submit a request to the Commandant (MVP) for administrative clemency and the

issuance of a new Chief Engineer's license after one year in accordance with 46 CFR 137.03-30(b).

ORDER

The order of the Examiner dated at Port Arthur, Texas, on 24 August 1955 is AFFIRMED.

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

Dated at Washington, D. C. this 9th day of December, 1955.