

In the Matter of Merchant Mariner's Document No. Z-244930-D2 and  
all other Licenses, Certificates and Documents

Issued to: JOSEPH RICHARD DOUGHERTY

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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JOSEPH RICHARD DOUGHERTY

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 7 March 1955, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-244930-D2 issued to Joseph Richard Dougherty upon finding him guilty of misconduct based upon two specifications alleging in substance that while in the service of the American MV DEL RIO as a messman, under authority of the document above described, on or about 29 June 1954, he failed to join said vessel at Douala, French Cameroons; and while in the service of the American MV DEL CAMPO as a messman, under authority of his document, on or about 13 November 1954, he failed to join said vessel at Monrovia, Liberia.

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. Appellant was represented by counsel of his own choice and he entered a plea of "not guilty" to the charge and each specification proffered against him.

The Investigating Officer made his opening statement. He then introduced in evidence the testimony of several witnesses and documentary exhibits.

In defense, Appellant offered in evidence his sworn testimony. Appellant stated that, on 29 June, he was led to believe his ship would remain in Douala indefinitely. Concerning the offense on 13 November, Appellant testified that he felt like he was going crazy and had only a hazy recollection of going ashore.

At the conclusion of the hearing, having heard the arguments of the Investigating officer and Appellant's counsel and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his decision and concluded that the charge and two specifications had been proved. He then entered the order

revoking Appellant's Merchant Mariner's Document No. Z-244930-D2 and all other licenses, certificates and documents 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 29 June 1954, Appellant was in the service of the American MV DEL RIO as a messman and acting under authority of his Merchant Mariner's Document No. Z-244930-D2 while the ship was at Douala, French Camerrooms.

On this date, Appellant went ashore to purchase some gin. He knew the ship was scheduled to get underway in not more than two hours but thought that he had time to return on board before she left. The DEL RIO had departed when Appellant returned to the dock after the scheduled sailing time. He did not rejoin the ship.

On 13 November 1954, Appellant was in the service of the American MV DEL CAMPO as a messman and acting under authority of his Merchant Mariner's Document Z-244930-D2 while the ship was at Monrovia, Liberia.

At about 1700 on this date, Appellant left the ship with all of his personal belongings. He was in an intoxicated condition. The Sailing Board announced the departure time as 2000. Appellant did not return on board before the ship departed shortly after 2000. Appellant did not rejoin the ship.

Appellant's prior record consists of three suspensions and two admonitions for various offenses such as assault, possession of firearms, refusal to obey lawful orders and failure to join in a foreign port. Appellant is 51 years of age and has been going to sea for about 15 years.

#### BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant urges that the harsh order of revocation is not justified by his prior record and the two offenses of failure to join. Appellant requests that the order be modified to a lighter one.

APPEARANCES: Messrs. Dodd, Hirsch and Barker of New Orleans, Louisiana, by Wilfred H. Boudreauz, Jr., of Counsel.

OPINION

In his appeal, Appellant does not question the proof of the two specifications. As to the failure to join on 13 November, Appellant was not capable, due to his intoxicated condition, of formulating the necessary intent to desert.

Within a period of five months, Appellant twice failed to join different ships in far distant ports where replacements are difficult to obtain. The proper operation of a ship is impaired when it is undermanned. Appellant's prior record includes another offense of this nature as well as others of a serious nature. For these reasons, it is my opinion that Appellant is either not capable of carrying out his duties and obligations on board ship, or is unwilling to do so. hence, the order of revocation will be sustained.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 7 March 1955 is AFFIRMED.

J.A. HIRSHFREED  
Rear Admiral, U. S. Coast Guard  
Acting Commandant

Dated at Washington, D. C., this 20th day of February, 1956.