

In the Matter of Merchant Mariner's Document No. Z-596657-:1 and  
all other Licenses, Certificates and Documents

Issued to: PABLO ENRIQUE PEREZ

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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PABLO ENRIQUE PEREZ

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 23 September 1954, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-596657-D1 issued to Pablo Enrique Perez upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as utility messman on board the American SS STEEL FLYER under authority of the document above described, on or about 31 October 1953, while said vessel was in the port of Houston, Texas, he committed assault and battery upon two persons on the crew, Frank Murphy and Pedro Perez. In addition, a third specification alleging in substance that appellant committed acts of sexual perversion on 2 June 1953, while serving as messman aboard SS DENISON VICTORY, was found proved.

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. He entered a plea of "not guilty" to the charge and each specification preferred against him.

Thereupon, the Investigating Officer made his opening statement. He introduced in evidence the testimony of two witnesses, two depositions made in response to written interrogatories, a copy of an entry in the Official Logbook of SS DENISON VICTORY, and a German police record.

In defense, Appellant offered in evidence his sworn testimony and one deposition made in response to written interrogatories.

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 specifications had been proved. He then entered the order

revoking Appellant's Merchant Mariner's Document No. Z-596657-D1 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 31 October 1953, Appellant was serving as utility messman on board the American SS STEEL FLYER and acting under authority of his Merchant Mariner's Document No. Z-596657-D1.

On that date Appellant asked one Frank Murphy, a member of the crew, whether he believed that Appellant had stolen his wallet. When Murphy replied that he did Appellant struck him with his fist. When Murphy ran away, Appellant followed him and grappled with him. No injury was suffered by Murphy.

Later that day Appellant and one Pedro Perez, another member of the crew, were drinking together ashore. After an argument over money, Pedro Perez and Appellant engaged in a fist fight in which Appellant received a beating. Appellant returned to the ship and was in his quarters putting hair tonic on his head when, in the mirror he was facing, he saw Pedro Perez enter the compartment. Without further ado he turned and hit Pedro Perez on the head with the tonic bottle which he was holding.

On 2 June 1953, Appellant was serving as messman on SS DENISON VICTORY which was then at Bremerhaven, Germany.

On that date, Appellant brought one Egon Holzke, a German national, to his quarters aboard the ship. There they engaged in overt homosexual acts.

These were observed by one Erwin Kopsel, a longshoreman, who was looking through the porthole.

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends:

- I that the findings on the first and second (STEEL FLYER) specifications are against the weight of the evidence;
- II that the order is too severe, when considered in the light of these two specifications;

III the findings on the third specification are against the weight of the evidence.

APPEARANCES: Seymour W. Miller of New York City by Irving A. Logue at the hearing and Allen J. Murray on appeal.

OPINION

The Examiner carefully weighed the evidence as to all specifications and the findings have full support in the record. There has been no good reason offered, nor does one appear, to disturb the findings.

Whatever the Examiner might have ordered, had the first two specifications alone been found proved, the offense of sexual perversion merits revocation of Appellant's document.

ORDER

The order of the Examiner dated at New York, New York, on 23 September 1954, is AFFIRMED.

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

Dated at Washington, D. C., this 8th day of May, 1956.