

In the Matter of Merchant Mariner's Document No. Z-379813-D1 and all other Seaman Documents

Issued to: PYTHAGORAS N. GEORGE

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1146

PYTHAGORAS N. GEORGE

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 31 March 1959, an Examiner of the United States Coast Guard at New York, New York suspended Appellant's seaman documents upon finding him guilty of misconduct. The specification alleges that while serving as a wiper on board the United States SS OCEAN EVA under authority of the document above described, on or about 17 November 1958, Appellant deserted the ship at Rotterdam, Netherlands.

At the hearing, Appellant voluntarily elected to act as his own counsel. He entered a plea of not guilty to the charge and specification. Appellant testified that he left the ship and went to Greece because he thought he was suffering from appendicitis. Appellant admitted that he had no operation performed. After considering the evidence presented by both parties, the Examiner concluded that the charge and specification had been proved. An order was entered suspending all documents, issued to Appellant, for a period of six months.

FINDINGS OF FACT

Between 18 July and 18 November 1958, Appellant was serving as a wiper on board the United States SS OCEAN EVA and acting under authority of his Merchant Mariner's Document No. Z-379813-D1 while the ship was on a foreign voyage.

As a result of Appellant's complaints that he thought he had appendicitis, Appellant was sent ashore to be examined by a physician at Rotterdam, Netherlands on 17 November 1958. The physician reported to the Master of the ship that there were no signs of appendicitis and that Appellant was fit for duty. This information was passed on to the Appellant by the Master. Nevertheless, the Master was informed by Appellant that he wanted to get off the ship.

On 18 November, Appellant packed all his personal belongings and left the ship without permission. He did not make any attempt to return to the ship but joined his wife in Greece. Appellant had

recently received word that she was ill while pregnant. Appellant was examined by a physician in Greece, but he did not undergo surgery.

Appellant has no prior record.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant states that he left the ship because he had a pain in his side and was worried about having appendicitis.

Although Appellant considers the Examiner's decision to be a very fair one on the basis of the evidence, Appellant requests a reduction of the suspension since it causes him great personal hardship.

OPINION

The above findings of fact clearly show that Appellant was guilty of desertion. The physician's report shows that Appellant was not ill. Having been told by the Master about this report, Appellant did not have any reasonable grounds for believing that he had appendicitis. As stated by the Examiner, the record indicates that Appellant left the ship because of concern for his wife's health. His conduct after leaving the ship establishes this. Since Appellant intentionally departed without justification after having signed the Shipping Articles for the voyage, he was guilty of desertion.

The Examiner considered Appellant's prior clear record before imposing the six months' suspension. The personal hardships of individual seamen afford no basis for the modification of suspensions in these remedial proceedings. Under all the circumstances, it is my opinion that the order imposed by the Examiner was a fair one.

The order of the Examiner dated at New York, New York, on 31 March 1959, is ~~REVERSED~~ **AFFIRMED**.

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

Dated at Washington, D. C., this 25th day of February 1960.