

In the Matter of Merchant Mariner's Document No. Z-380910-D1 and all other Seaman Documents

Issued to: RALPH B. GROSECLOSE

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1170

RALPH B. GROSECLOSE

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 23 June 1959, an Examiner of the United States Coast Guard at Baltimore, Maryland revoked Appellant's seaman documents upon finding that he is incompetent. The specifications found proved allege that due to Appellant's mental condition, weakness of character and poor habits of life, he is unable to carry out the responsibilities and duties required of unlicensed personnel on board merchant vessels of the United States.

At the hearing, Appellant was represented by counsel of his own choice. Appellant entered a plea of guilty to the charge and each specification.

The Investigating Officer introduced in evidence numerous documentary exhibits including medical records of the Appellant from U. S. Public Health Service Hospitals and ships' logbook entries pertaining to Appellant. No evidence was submitted by the defense.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and specifications had been proved. An order was entered revoking all documents issued to Appellant.

On appeal, counsel contends that Appellant was denied due process of law when the Examiner refused to withdraw the specification alleging incompetence due to poor habits of life and when the Examiner admitted in evidence, over objection, hearsay medical records and thereby deprived Appellant of the right to cross-examine the physicians.

APPEARANCE: Dorfman, Pechner, Sacks and Dorfman of Philadelphia, Pennsylvania,
by Sidney J. Smolinsky, Esquire, of Counsel

OPINION

The contentions raised on appeal are not persuasive. The Examiner's order of revocation will be sustained on the basis of the specification alleging that he is mentally incompetent, without regard

to the allegations of poor habits of life and weakness of character as independent reasons for this decision.

The medical records were properly received in evidence, despite objection, since they were admissible as an exception to the hearsay rule under 26 U.S. Code 1732 because they are records made in the regular course of business. See Commandant's Appeal Decisions Nos. 916 and 1160 citing Medina v. Erickson (C.A. 9, 1955), 226 F. 2d 475, cert. den. 351 U.S. 912 (1956), concerning the admissibility of hospital records.

The Examiner's conclusion that Appellant was incompetent to go to sea is adequately supported by the facts stated in the medical records and logbook entries. These show that Appellant has, at various times, talked and behaved irrationally, displayed considerable physical violence, assumed hostile attitudes, had hallucinations, suffered from loss of memory, created shipboard disturbances, consumed excessive quantities of alcohol; and that he has a history of mental illnesses. While serving on a ship in late 1958, Appellant became so violent that he was confined to his quarters with a watch over him for twelve days until he was removed from the ship at Karachi, India and hospitalized for six weeks before being returned to the United States with an escort. Appellant was further hospitalized for observation and treatment at the Staten Island, New York Public Health Service Hospital from 19 December 1958 to 3 February 1959. He was discharged as improved but still "not fit for duty". At the Baltimore, Maryland Public Health Service Hospital, on 26 March 1959, Appellant was found to be "not a suitable risk for further duty aboard ship". These two opinions by physicians at different Public Hospitals lend further support to the Examiner's conclusion that Appellant was mentally incompetent to serve on a ship. There are no later opinions of this nature contained in the record.

ORDER

The order of the Examiner dated at Baltimore, Maryland, on 23 June 1959, is AFFIRMED.

J. A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 24th day of May, 1960.