

In the Matter of Merchant Mariner's Document No. Z-88912-D1 and all
other Seaman Documents
Issued to: FRANCIS J. WHITE

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1270

FRANCIS J. WHITE

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 11 May 1961, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as an able seaman on board the United States SS MARGARET BROWN under authority of the document above described, on 15 April 1961, Appellant failed to join his ship when she sailed from the port of Bremen, Germany. Appellant rejoined the ship on the following day at Rotterdam.

At the hearing, Appellant voluntarily elected to act as his own counsel. Appellant entered a plea of guilty to the charge and specification.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and specification had been proved by plea. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of three months outright plus six months on eighteen months' probation. This included a prior three months' suspension which had been placed on twelve months' probation in February 1961.

OPINION

This appeal is based on solely on the grounds that the order is highly excessive since Appellant rejoined the ship through his own efforts; this is Appellant's only means of supporting his aged mother; the loss of wages for three months together with union and company fines amounts to almost \$2000.

Appellant's record since the beginning of 1950 consists of a probationary suspension in November 1950 for two offenses of failure to join; a probationary suspension in January 1952 for failure to join; a six months' outright suspension in June 1958 for

desertion in a foreign port, failure to perform duties as Boatswain due to intoxication, and damaging ship's property (affirmed in Appeal No. 1075); the above mentioned probationary suspension in February 1961 for failure to perform duties on six different dates;

and this offense of failure to join in a foreign port. As a result of an Examiner's order of three months' outright suspension plus a probationary suspension in August 1961, Appellant surrendered, on 8 September, the temporary document which he had obtained when he appealed from the Examiner's decision of 11 May 1961 in the case under consideration in this decision.

In the present case, the Examiner stated that he based his order on a consideration of Appellant's prior record, particularly the three months' suspension on twelve months' probation which was imposed in February 1961. This probation was violated about two months later by the offense on 15 April. consequently, the Examiner revoked the probation and put into effect the three months' suspension without imposing any additional outright suspension. Apparently, this was done without knowledge that the suspension in June 1958 was imposed for failure to perform duties and damaging ship's property as well as for the offense of desertion which is the only one of these three offenses referred to in the Examiner's decision.

Considering Appellant's propensity to disregard his responsibilities on board ship, as indicated by his cumulative record of offenses, I emphatically disagree with the contention that the Examiner's order is excessive. The resulting personal hardships should be a valuable experience if Appellant remembers them in the future.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, 11 May 1961, is AFFIRMED.

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

Signed at Washington, D.C., this 9th day of November, 1961.