

In the Matter of License No. 265270 and all other Seaman Documents
Issued to: Adrian C. De Boer

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1311

Adrian C. De Boer

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 15 May 1961, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents for one month on three months' probation upon finding him guilty of misconduct. The two specifications found proved allege that while serving as a Second Mate on board the United States SS STEEL DIRECTOR under authority of the license above described, on 2 November 1960, Appellant failed to perform his duty and he addressed the Chief Mate with abusive language.

At the beginning of the hearing on 17 February 1961, Appellant and the Chief Mate were at sea on different ships. The hearing was adjourned until 20 March when the testimony of the Chief Mate was obtained in Appellant's absence since his ship did not return until a later date. On 12 May, Appellant testified at the hearing and expressed the desire to have the Chief Mate present. There is no indication as to whether he was available to appear on this date.

This record will be remanded to the Examiner for further proceedings including direct and cross-examination of the Chief Mate. This seems advisable with respect to both specifications. Appellant testified that he did not turn to at 0800 because he was not called until 0845. The Chief Mate stated that Appellant was called by the Night Mate at the regular time of 0720 but was not questioned as to the source of this information. Concerning the language used by Appellant after he was on dock at about 0900, he denied using any profane or abusive language and repeatedly made reference to other witnesses who he apparently thought would testify at the hearing. Appellant and the Chief Mate were the only two witnesses and no other mention was made of the "two gentlemen" referred to by Appellant. When the testimony of the person charged and that of another person directly involved in the offenses alleged are in conflict, other witnesses should be produced if practicable.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 15 May 1961, is VACATED. The record is REMANDED for further proceedings not inconsistent with this decision.

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

Signed at Washington, D. C., this 8th day of May 1962.