

In the Matter of Merchant Mariner's Document No. Z-474878-D3 and
all other Seaman Documents

Issued to: FRANCISCO C. AGUILAR

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1325

FRANCISCO C. AGUILAR

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 13 February 1961, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents for two years upon finding him guilty of misconduct. The two specifications found proved allege that while serving as a carpenter on board the United States SS MONTEREY under authority of the document above described, on 11, 18, 19 and 20 January 1961, Appellant failed to perform his duties by reason of intoxication.

Since Appellant was absent from the hearing without explanation, the Examiner entered pleas of not guilty on behalf of Appellant and conducted the hearing in absentia.

The offenses alleged are proved by entries in the ship's Official Logbook to which Appellant made no reply.

Appellant's prior record consists of an admonition in 1956 and suspensions in 1958, 1959, and 1960 for numerous offenses of failing to perform his duties on various ships. The present order of two years' suspension includes a one year suspension which was imposed in 1960 and placed on two years' probation.

OPINION

The statement on appeal that Appellant did not attend the hearing because he was ill is not acceptable since the record does not indicate that he made any attempt to contact the Coast Guard to make other arrangements.

The contention that the Examiner's decision is contrary to the evidence and law is completely without merit. The logbook entries were timely made and are in the proper form.

Appellant's conduct indicates a complete rejection of responsibility on many occasions. Nevertheless, the order will be modified since it is the usual policy not to extend outright suspensions for a longer period than one year.

ORDER

The Examiner dated at New Orleans, Louisiana, on 13 February 1961, is modified to provide for an outright suspension of one year plus one year suspension on probation for one year.

As MODIFIED, the order is AFFIRMED.

E. J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 2nd day of August, 1962.