

In the Matter of Merchant Mariner's Document No. Z-98263 and all other Seaman Documents

Issued to: THOMAS R. PERALE

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1332

THOMAS R. PERALE

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 19 November 1957, an Examiner of the United States Coast Guard at Portland, Oregon suspended Appellant's seaman documents for eight months upon finding him guilty of misconduct. The specification found proved alleges that while serving as an oiler on board the United States SS XAVIER VICTORY under authority of the document above described, on 3 October and 15, 16, 17, 19, 20 and 21 October 1957, Appellant wrongfully failed to stand his assigned watches.

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

The Investigating Officer made his opening statement and introduced no evidence. He stated that his investigation indicated that Appellant may have thought he had sufficient reason not to perform his duties on these dates.

During questioning by the Examiner, Appellant stated that, at the time of the alleged offenses, he was sick with a painfully infected wrist and a paralyzed arm but he was denied proper medical attention until a physician was called on board by a port agent when the ship was attempting to obtain clearance from a foreign port.

After this, the Examiner rendered the decision in which he concluded that the charge and specification had been proved by plea.

The decision was not served until 5 October 1961 for reasons not shown in the record.

OPINION

Appellant's statement was clearly inconsistent with his plea of guilty. Since the Examiner failed to reject the guilty plea and enter a plea of not guilty as required by 46 CFR 137.09-45, the finding and conclusion that the allegations were proved by plea are reversed. The charge and specification are dismissed.

ORDER

The order of the Examiner dated at Portland, Oregon, on 18 November 1957, is VACATED.

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

Signed at Washington, D.C., this 13th day of August 1962.