

In the Matter of Merchant Mariner's Document No. Z-64875-D7 and all
other Seaman Documents
Issued to: Sherman McGruder

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1397

Sherman McGruder

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 12 January 1962, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman document for six months outright. This order includes the violation of probation in the order of three months on eighteen months' probation entered on 28 July 1961 at New Orleans, Louisiana. The specification found proved alleges that while serving as Oiler on board the United States SS LETITIA LYKES under authority of the document above described, on or about 23 and 24 October 1961, Appellant failed to perform his assigned duties. The hearing was conducted in absentia. The Investigating Officer introduced in evidence from the Shipping Articles and from the Official Logbook of the SS LETITIA LYKES. He also offered in evidence the testimony of the Third Assistance Engineer and the Chief Engineer.

FINDINGS OF FACT

On the 23rd and 24th of October 1961 Appellant was absent from his assigned watches from 1600 to 2400, without permission, while the SS LETITIA LYKES lay in the port of Kobe, Japan.

OPINION

The sole basis of appeal is that the order of the Examiner is excessive in view of the nature of the offense. This position is not tenable in view of Appellant's prior record, in 1958, of three months outright suspension plus three months on twelve months' probation, and the fact that the offense with which Appellant is charged in the instant case occurred within the probationary period ordered by an Examiner in New Orleans on 28 July 1961. At that time Appellant's documents were suspended for one month outright with three months on eighteen months' probation for failure to perform his assigned duties.

Appellant's conduct shows a lack of responsibility as a merchant seaman that can not be condoned.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 12 January 1962, is AFFIRMED.

D. McG. MORRISON
Vice Admiral, United States Coast Guard
Acting Commandant

Signed at Washington, D. C., this 24th day of June 1963.