

In the Matter of Merchant Mariner's Document No. Z-175145 and All
Other Seaman Documents
Issued to: Pasquale A. Taurasi

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1421

Pasquale A. Taurasi

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 3 July 1963, an Examiner of the United States Coast Guard at New Orleans, Louisiana revoked Appellant's seaman documents upon finding him guilty of misconduct. The two specifications found proved allege that while serving as an electrician on the United States SS WACOSTA under authority of the document above described, on 18 March 1963, Appellant engaged in acts of sexual perversion with a German male juvenile; and on 19 March 1963, Appellant failed to join his ship.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the first specification above and guilty to the second specification.

The Investigating Officer introduced in evidence a certified and authenticated copy of a Decree and Sentence of the County Court of Bremen, Germany, Juvenile Division, which concluded that on 18 March 1963, Appellant "seduced a male person under 21 years of age into committing indecency with him". (Quoted as translated at the hearing).

In defense, Appellant denied making sexual advances but admitted having placed the boy's hand on Appellant's knee in a gesture of friendship. With respect to the court trial in Bremen, Appellant testified that he did not understand the proceedings although he was represented by a lawyer and an interpreter was present. Appellant also stated that he did not enter a plea or testify at the trial.

FINDINGS OF FACT

On 18 and 19 March 1963, Appellant was serving as an electrician on the United States SS WACOSTA and acting under authority of his document while the ship was in the port of Bremen,

Germany.

On the afternoon of 18 March, Appellant met a fourteen-year old German boy and took him to a motion picture theater. While seated with his coat on his lap, Appellant guided the boy's hand to where Appellant had opened his trousers in front under cover of the coat. The boy left the theater and Appellant started to follow when he was stopped by the manager of the theater who had observed Appellant's suspicious behavior. Appellant attempted to flee but he was overtaken by several youths. He was escorted to the police station and held in custody until he was tried, on a charge of indecency with a child, before the County Court of Bremen, Juvenile Division. Consequently, Appellant failed to join the WACOSTA upon her departure from Bremen on 18 or 19 March.

At the trial on 26 April, Appellant was represented by a lawyer who had previously been appointed by the court and had consulted with Appellant prior to the trial. An interpreter translated for Appellant during the trial. Based on testimony of the German boy and the theater manager, which was basically in agreement with the above findings of fact, the Court concluded that Appellant was guilty as charged. The sentence of eight months in prison was suspended and Appellant was placed on probation for three years.

Appellant has no prior record of action against his seaman documents.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the alleged offense of sexual perversion has nothing to do with Appellant's ability as an electrician and this incident happened ashore rather than on board ship. Appellant failed to join his ship because he was in jail.

The translation of the Court record introduced in evidence does not seem to agree with Appellant's testimony at the hearing that he did not enter a plea or testify at the trial. Although these two factors are not specifically referred to in what appears to be the decision of the Court, since it is signed by the presiding Municipal Judge, the Court record indicates that the case was tried on the basis of a not guilty plea and that Appellant testified since it is stated that the "accused only admits that he placed the boy's hand on his right thigh". (At the hearing Appellant changed this from his "thigh" to "knee".) The Judge refers to the boy and manager as witnesses at the trial and states that there is no reason to doubt the credibility of the statements made by these two witnesses. The version given by the accused

(Appellant) is referred to as an evasion because he fears punishment. Since Appellant was represented by counsel and an interpreter was present, Appellant's testimony at the hearing that he did not understand the court proceedings is not persuasive. In my opinion, the record shows that Appellant was found guilty after a fair trial during which he contested the charges.

Appellant's admission that he placed the boy's hand on Appellant's knee (or thigh) supports the accuracy of the conclusion arrived at by the Examiner and the Bremen Court. Appellant's attempt to flee when confronted by the theater manager further negates his claim of innocence.

Appellant contends that this incident occurred ashore and has no bearing on his ability as an electrician. Nevertheless, the order will be sustained since Commandant's Appeal Decision No. 1042 states that jurisdiction extends to offenses committed ashore by seamen serving on United States ships and that the only suitable order in cases of sexual perversion such as this is revocation of the seaman's documents in order to protect other seafarers from his malignant influence. Appellant's service for many years without a prior record does not alter this conclusion.

Appellant was properly found guilty of failing to join his ship because his detention by the local authorities was the result of his own misconduct.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 3 July 1963, is AFFIRMED.

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

Signed at Washington, D.C., this 1st day of October 1963.