

In the Matter of Merchant Mariner's Document No. Z-211601-D5 and
all other Seaman Documents

Issued to: HUBER A. COE

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1439

HUBER A. COE

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 2 August 1963, an Examiner of the United States Coast Guard at Portland, Oregon revoked Appellant's seaman documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as an able seaman on board the United States SS EVIBELLE under authority of the document above described, Appellant failed to perform his duties, due to intoxication, on eight occasions between October 1962 and August 1963.

At the hearing, Appellant was represented by non-professional counsel. Appellant entered plea of guilty to the charge and specification. He stated that, at times, he did not work because he was sick from drinking. A letter signed by the Master of the EVIBELLE was offered in mitigation. It states that, except for the days on which Appellant did not work, he was a hard worker and a good sailor.

At the end of the hearing on 2 August, the Examiner rendered an oral decision and served a written order on Appellant revoking all his seaman documents as of this date. The entire decision was served on 8 August.

On appeal, professional counsel contends that since Appellant has a record of only minor offenses during his 33 years as a merchant mariner, revocation for these eight offenses were committed during an nine month voyage is so excessive as to constitute an abuse of discretion depriving Appellant of his livelihood. It is respectfully submitted that leniency should be granted as indicated in the letter of the Master which was introduced at the hearing.

APPEARANCE ON APPEAL: Smith and Waltzer of New Orleans,
Louisiana, by Bruce C. Waltzer, Esquire,
of counsel.

OPINION

Clemency will not be granted in view of the unusual number of offenses of the same nature now under consideration and Appellant's extensive record of similar offenses during the past 20 years. This includes 10 offenses of failure to perform duties, 6 of which were due to intoxication (found proved in February 1962), and 3 other offenses involving intoxicants. At the time of 8 offenses committed while serving on the EVIBELLE, Appellant was still on probation which had been imposed for a period of 18 months as part of the order resulting from the 6 offenses of failure to perform duties found proved in February 1962.

Orders of revocation were affirmed by Commandant's Appeal Decisions Nos. 1406 and 1374 under comparable circumstances. In the latter case, the Appellant was found guilty of 5 offenses of failure to perform duties due to intoxication.

These precedents on appeal indicate that there was no abuse of discretion by the Examiner in ordering the documents of the present Appellant revoked. The order of revocation is justified on the basis of Appellant's cumulative record which shows a complete rejection of responsibility on many occasions. Considering how this attitude could affect the safety of the life and property at sea, Appellant's loss of livelihood and the fact that he is a good worker when he works, are not sufficient to merit modification of the order.

ORDER

The order of the Examiner dated at Portland, Oregon, on 2 August 1963, is AFFIRMED.

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

Signed at Washington, D. C., this 10th day of January 1964.