

In the Matter of Merchant Mariner's Document No. Z-1126324 and all
other Seaman Documents
Issued to: GERARD S. PROETTO

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1451

GERARD S. PROETTO

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 17 September 1963, an Examiner of the United States Coast Guard at New York, New York revoked Appellant's seaman documents upon finding him guilty of misconduct. The offense alleged in the specifications was proved by evidence that while serving as a deck maintenanceman on board the United States SS ANGELO VICTORY under authority of the document above described, Appellant wrongfully failed to join his ship upon her departure from Barcelona, Spain on 21 July 1963.

There was no refutation of the evidence of the offense contained in excerpts from the Shipping Articles and an entry in the ship's Official Logbook since Appellant failed to appear at the hearing as directed.

Appellant's prior record consists of seven offenses of failure to join within three and a half years of the present offense.

On appeal, it is urged that revocation is excessive for the offense in comparison with other similar cases; Appellant was upset by the death of his father but has now recovered; Appellant is a professional seaman and fully realizes the responsibilities connected with this livelihood which he values highly. If the revocation is affirmed, Appellant respectfully requests that he be allowed to apply for a new document at this time or as soon as possible.

APPEARANCE ON APPEAL: John C. Brazil, Esquire of New York City,
of Counsel

OPINION

Numerous offenses of failure to join indicate that Appellant does not fully appreciate his obligations as a merchant seaman.

This offense is aggravated when it occurs in a foreign port since it is often difficult to obtain replacements promptly. Consequently, ships are delayed or endangered by sailing shorthanded when crew members fail to join.

The appeal decisions cited by counsel which are most closely related to this case are Nos. 770 and 777. In each of these, the order of revocation was affirmed on appeal with the right to apply for a new document after one year. Nevertheless, the order herein will be reduced to a suspension for one year outright in view of the comparatively minor nature of the individual offenses of failure to join, the absence of any more serious offenses in Appellant's prior record, and counsel's sincere assurance that Appellant will not be guilty of this offense in the future.

ORDER

The order of the Examiner dated at New York, New York, on 17 September 1963, is modified to provide for a suspension of twelve (12) months.

As so MODIFIED, the order is AFFIRMED.

G. A. Knudsen
Rear Admiral, United States Coast Guard
Acting Commandant

Signed at Washington, D. C., this 14th day of April, 1964.