

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-220876 AND ALL
OTHER SEAMAN DOCUMENTS

Issued to: William J. Frisbie, Jr.

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1492

William J. Frisbie, Jr.

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 13 May 1964, an Examiner of the United States Coast Guard at New Orleans, Louisiana revoked Appellant's seaman documents upon finding him guilty of misconduct. The three specifications found proved allege that while serving as a deck utilityman on board the United States SS JOHN LYKES under authority of the document above described, Appellant failed to join his ship upon her departure from St. Nazaire, France on 1 April 1964 (rejoined 5 April) and upon her departure from Southhampton, England on 13 April 1964(rejoined 16 April); and he failed to perform his duties from 0800 to 1200 on 20 April 1964 while the ship was at Gynia, Poland.

Since Appellant failed to appear at the hearing as directed, there was no attempt to refute the prima facie case made out by the certified extracts from the Shipping Articles and the certified copies of the Official Logbook.

Appellant's prior disciplinary record since 1943 includes numerous offenses of failure to join and absence without leave. His record within the last seven years consists of five offenses of failing to join or failing to perform duties, and disobeying an order to surrender an unopened bottle of gin which he carried on board ship. As a result of the last hearing (December 1963) prior to the one on which this appeal is based, an order of probationary suspension was imposed for failing to join his ship on two occasions.

On appeal, it is urged that the order is too excessive and constitutes severe hardship for offenses which do not indicate any violent tendencies. It is suggested that a lengthy outright suspension and a period of probation would serve the remedial purpose of these proceedings.

APPEARANCE ON APPEAL: Freedman, Landy and Lorry of Philadelphia,
Pennsylvania by Stanley B. Gruber, of Counsel

OPINION

Although the order of revocation is justified on the basis of Appellant's cumulative prior record, it will be reduced to a twelve months' outright suspension plus a suspension placed on a lengthy period of probation in order to give Appellant a final opportunity, in view of prior lenient treatment which may have misled him, to change his conduct after he remains ashore for a full year. If he then fails to join his ship or fails to perform his duties for other reasons, the probable result will be in order of revocation which will not be modified on appeal.

This action is consistent with that taken in Commandant's Appeal Decision No. 1451.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 13 May 1964, is modified to provide for an outright suspension of twelve (12) months which is not to become effective unless Appellant is found guilty of an offense committed within twenty-four (24) months after completion of the outright suspension.

As MODIFIED, the order is AFFIRMED.

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

Signed at Washington, D. C., this 18th day of March 1965.

I N D E X

Failure to join

- rejoin
- repeated offenses

Failure to perform duties

- offense of
- repeated offenses

Modification of Examiner's order

- cumulative offenses, regardless of
 - on appeal
 - uniformity, for purpose of

Revocation or suspension

- cumulative offenses as justifying