

Issued to: LINK J. WALTERS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1493

LINK J. WALTERS

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 October 1964, an Examiner of the United States Coast Guard at San Francisco, California, suspended Appellant's seaman documents for twelve months outright upon finding him guilty of misconduct. The specification found proved alleges that while serving as Third Mate on the United States SS PRESIDENT TYLER under authority of the license above described, Appellant failed to perform his assigned duties in foreign ports on seven different dates in June 1964.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the testimony of the Master of the PRESIDENT TYLER on the voyage in question. His testimony constitutes substantial evidence that, on the dates alleged, Appellant was unable to stand his watches due to his intoxicated condition.

The only evidence introduced in defense consisted of entries in the ship's Official Logbook referring to the alleged offenses. The purpose of this was to show that the entries were not made in compliance with 46 U.S. Code 702.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved. The Examiner then entered the twelve months' order of suspension which included a prior suspension of three months which had been placed on probation for one year on 31 January 1964.

On appeal, it is argued that the order is excessive for the misconduct found proved and it deprives Appellant of his only livelihood since he has been going to sea for almost twenty years.

OPINION

The Examiner properly concluded that the failure of the Official Logbook entries to comply

with the requirements of 46 U. S. Code 702 was not material to the proof since the allegations were supported by the credible and uncontradicted testimony of the Master.

Regardless of the personal hardship resulting from the twelve months' suspension and the nature of the offenses for which it was imposed, it is not considered to be excessive under the circumstances. Not only did Appellant fail to shoulder his heavy responsibilities on these seven occasions in June 1964 while he was serving as a Third Mate, but he has a prior record of similar offenses involving intoxication for which he was found guilty in January 1964 and February 1963. Appellant's cumulative record more than justifies the order rendered by the Examiner.

ORDER

The order of the Examiner dated at San Francisco, California, on 12 October 1964, is AFFIRMED.

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

Signed at Washington, D. C., this 19th day of March 1965.

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