

IN THE MATTER OF LICENSE NO. R-18007 MERCHANT MARINER'S DOCUMENT NO.
Z-844707 AND ALL OTHER SEAMAN DOCUMENTS

Issued to: MILO J. WILLIAMS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1502

MILO J. WILLIAMS

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 22 April 1964, an Examiner of the United States Coast Guard at San Francisco, California, found that Appellant was mentally incompetent and suspended his Radio Operator's license and seaman's documents until Appellant can establish that he is fit for sea duty. The two specifications found proved allege that while serving as a Radio Operator on board the United States SS FAIRPORT under authority of the license above described, between 26 September 1963 and 14 November 1963, he acted in a manner which showed that he was mentally incompetent and that, during this period and to date, Appellant was (and is) suffering from a mental disorder which renders him unfit for sea duty.

At the beginning of the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and both specifications.

The Investigating Officer introduced in evidence numerous documentary exhibits and the testimony of a witness before making a motion that the Examiner direct Appellant to submit to an examination at the United States Public Health Service Hospital in San Francisco.

After Appellant testified under oath at great length, during which he revealed a history of hospitalization for a mental condition in 1945, the Examiner granted the Investigating Officer's motion and entered an order for Appellant to be examined by Dr. Daniel Beittle, Staff Psychiatrist at the Public Health Service Hospital, San Francisco. The Examiner informed Appellant of the regulation which permits an additional examination by a physician other than the one with the Public Health Service if the person charged pays for it. 46 CFR 137.20-27. Two medical reports by Dr. Beittle and a related one by a clinical psychologist at the PHS Hospital were placed in evidence at a later date.

The Master of the FAIRPORT on the voyage in question appeared as a witness. He testified that Appellant had failed to perform properly his duties as a Radio Operator, there was no apparent

reason for his neglect of duty or his fear of physical violence, and there had been no particular trouble on the voyage except with respect to Appellant. The Master was cross-examined by counsel for Appellant. Except for this one session of the hearing, Appellant chose not to appear without representation.

Appellant then introduced in evidence several documentary exhibits including reports of the results of two lie detector tests which indicate that Appellant did not lie in giving his account of the voyage, particularly in his denial that he was responsible for the loss of a radio log. These results are contrary to a Government exhibit which shows that when Appellant was informed of evidence of deception in a lie detector test, arranged for by the Government at Appellant's request, Appellant admitted that he had hidden some radio log sheets.

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 an order suspending the license and Merchant Mariner's Document, issued to Appellant, until such time as he establishes that the mental condition found to exist has been cured and he is mentally and physically fit for sea duty.

FINDINGS OF FACT

On a foreign voyage from 26 September to 14 November 1963, Appellant was serving as Radio Operator on board the United States SS FAIRPORT and acting under authority of his license. His regular watch hours at sea were from 0900 to 1200, and 1400 to 1700, and 1900 to 2100.

During the voyage, Appellant failed to supply the Master with routine weather reports while on watch at sea and otherwise failed to perform properly his duties while on watch. Such was attributable to Appellant's unfounded fear of bodily injury, distrust of others, suspicion that he would be poisoned, and other similar feelings of distress.

On the morning of 23 October prior to entering Pusan, Korea, Appellant failed to send a required arrival report. Appellant did not stand his pre-arrival watch, during which the message was to have been sent, because he thought there was an intimidation campaign against him and, therefore he hid in the engine room to get away from the mates (R.54). In appellant's signed explanation as to why he did not send this routine arrival report, he stated in part, "I did go up to the radio room. . . But I changed my mind and left. . . . I went to another part of the ship for reasons of my own which may have been imaginary reasons or may have been reasons of sound content." (Govt. Exh. 4A)

At Pusan, Appellant attempted to arrange, through the United States Consul, to be relieved. Appellant desired to get off the ship because the mental strain was so great and he was so emotionally upset that he realized he could not properly perform his duties as Radio Operator. Appellant said that, at this time, he was "dam scared. . . and worried" (R. 51), "beaten emotionally" (R. 67), and he "couldn't stand a good watch" (R. 51). The Consul told Appellant that it could not be legally arranged for him to leave the ship (R. 51, 67). Consequently, Appellant completed the voyage.

On 7 and 27 February 1964, Appellant was interviewed by Dr. Daniel Beittle, Staff Psychiatrist at the Public Health Service Hospital in San Francisco. During these two interviews, it was observed that Appellant sometimes related minute details concerning topics completely unrelated to the subject which was being discussed. Dr. Beittle concluded that Appellant's occasional confusion of thoughts and related behavior indicate he was suffering from a mental condition which rendered him incompetent to serve as a Radio Operator. No medical evidence to the contrary has been presented.

Appellant has been sailing since approximately 1950. He has no prior record.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the testimony against Appellant was predominately false and the report of the lie detector test, arranged for by the Government, was obviously falsified. These falsifications are proven by the results of two other lie detector tests which indicate that there was no deception by Appellant in answering questions.

OPINION

It is evident from Appellant's own testimony that he was under such a mental strain during this voyage that he was not able to carry out his duties as the only Radio Operator on the ship - a most responsible position. Appellant admitted that he could not do his job properly (Govt. Exh. 10); it was once 15 hours between weather reports (R. 41); and he did not send the required Pusan arrival report (Govt. Exh. 4 and 7).

Appellant blamed these conditions primarily on his fear of physical violence by the Master, Chief Mate and Second Mate (R. 50 , 145) although he admitted that there had been no verbal threats (R. 57). Appellant repeatedly referred to an intimidation campaign against him (R. 47, 56, 67; Govt. Exh. 4, 7, 10) and "bugging" by others (R. 49). In a statement sworn to before the United States Consul at Yokohama, on 15 October, Appellant stated that the Master advanced on Appellant for his failure to obtain radio weather reports; the Master was "potentially dangerous"; this was the fourth time "people in high steamship company esteem" doubled up their fists at Appellant; the Chief Mate, Second Mate, the ship's regular Master and the current relief Master had done this to Appellant as a means of intimidation; and the prior relief Master had also attempted to intimidate Appellant. (Govt. Exh. 2)

On the other hand, as indicated in the earlier reference to the testimony of the Master, the latter testified there was no reason for Appellant's fears and suspicions (R. 104,119). The Master denied that he had raised his fists against Appellant (R. 112) and that there was any animosity by the mates toward Appellant (R. 102). In the face of this testimony by the Master and in the absence of any convincing evidence to support Appellant's unusual version as to the reasons for his irrational conduct, his explanations are rejected. The results of the two lie detector tests favorable to Appellant

will not be considered since a third lie detector test indicated that Appellant's answers were deceptive. Also, the United States Consul did not think Appellant's reasons for wanting to leave the ship at Pusan were adequate.

CONCLUSION

Considering all the evidence, including the opinion of Dr. Beittle, I am convinced that Appellant's failure to do his job properly was due to his mental illness which cannot be blamed on other conditions on the ship. Appellant's fears, suspicions and other signs of his emotionally disturbed state of mind were symptoms of this mental illness.

According to Appellant's own version of his behavior, there are sufficient facts on which to base the conclusion that, in the absence of any showing his condition has been cured, Appellant is mentally incompetent to perform duties on a vessel at sea, particularly the duties of a Radio Operator.

As stated in Commandant's Appeal Decision No. 1086, there is no provision in the regulations for an examiner to enter an order of suspension until the person charged is found to be fit for sea duty. Although the order herein will not be changed to increase the severity of the order to a revocation, it will be modified for the purpose of the clarification.

ORDER

The suspension of all licenses and other documents issued to Appellant by the United States Coast Guard shall remain in effect until such time as Appellant produces a certificate issued by the United States Public Health Service stating that Appellant's past medical history has been studied and that he is mentally fit to sea duty, but the final determination as to whether or not Appellant is considered to be cured and fit for sea duty shall rest with the Commandant.

The order of the Examiner dated at San Francisco, California, on 22 April 1964, is AFFIRMED as MODIFIED.

W.D. Shields
Vice Admiral, United States Coast Guard
Acting Commandant

Signed at Washington, D. C., this 27th day of May 1965.

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