

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-515097-D5 AND
ALL OTHER SEAMAN DOCUMENTS

Issued to: Ovidio E. JOYA

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1620

Ovidio E. JOYA

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 18 August 1966, an Examiner of the United States Coast Guard at Seattle, Washington, suspended Appellant's seaman's documents for 8 months outright plus 6 months on 15 months' probation upon finding him guilty of misconduct. The specification found proved allege that while serving as an oiler on board the United States SS BALTIMORE TRADER under authority of the document above described, on or about the 6th through the 13th, the 19th, 20th and 25th of June 1966 and the 21st and 26th of July 1966, Appellant wrongfully failed to perform his duties.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and each specification.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and specifications had been proved by plea. The Examiner then served an order on Appellant suspending all documents issued to him for a period of 8 months outright plus 6 months on 15 months' probation.

The entire order was served on 8 August 1966. Appellant timely filed on 26 August 1966.

FINDINGS OF FACT

From the 6th through the 26th of June 1966, Appellant was serving as an oiler on board the United States SS BALTIMORE TRADER and acting under authority of his document while the ship was on a foreign voyage.

On the dates of June 6, 7, 8, 9, 10, 11, 12, 13, 19, 20 and 25, 1966, and again on July 21 and 26, 1966, Appellant wrongfully failed to perform his duties, as admitted by his plea of guilty.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the order be reduced.

APPEARANCE: National Maritime Union, by Mr. Richard J. Glynn

OPINION

The Examiner extended to Appellant the right to make a statement in mitigation of the offense. His only response was "I was wrong."

By order of the United States Coast Guard Examiner at San Francisco, California, on 29 January 1966, Appellant's document had been suspended for four months on 12 months probation for failure to join and failure to perform while serving on the SS THUNDERBIRD. At the time of the offenses occurring on board the SS BALTIMORE TRADER in June and July 1966, the probationary order of the San Francisco Examiner had not expired. As a consequence, the Examiner in the present case invoked the four months' suspension which was ordered on 12 months' probation, and in addition, penalized Appellant further for misconduct which occurred within the probationary period.

It is considered that because of the type of misconduct here, which has a direct bearing on the safety of life at sea, and because the offenses occurred while Appellant was on probation from an earlier finding of misconduct, the order is not excessive.

ORDER

The order of the Examiner dated at Seattle, Washington, on 8 August 1966, is AFFIRMED.

P.E. TRIMBLE
Vice Admiral, U.S. Coast Guard
Acting Commandant

Signed at Washington, D.C., this 18th day of May 1967.

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