

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-77192-DA AND
ALL OTHER SEAMAN'S DOCUMENTS

Issued to: Lindsay Coates

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1644

Lindsay Coates

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 29 December 1966, an Examiner of the United States Coast Guard at New York City suspended Appellant's documents for 2 months outright plus 4 months on 24 months' probation upon finding him guilty of misconduct. The specifications found proved allege that while serving as an oiler on board the United States SS MORMACLAND under authority of the document above described, from 7 November to 3 December 1966, Appellant wrongfully failed to perform his duties on five occasions, wrongfully disobeyed the lawful commands of his superior officers on three occasions, and wrongfully created a disturbance on one occasion.

At the hearing, Appellant elected to act as his own counsel, and entered a mixed plea.

The Investigating Officer introduced in evidence entries from the official log book of the vessel.

Appellant testified on his own behalf.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and all specifications had been proved. The Examiner then served a written order on Appellant suspending all documents issued to him for a period of 2 months outright plus 4 months on 24 months' probation.

The entire decision and order was served on 30 December 1966. Appeal was timely filed on 11 January 1967.

FINDINGS OF FACT

From 7 November to 3 December 1966, among other dates, Appellant was serving as an oiler on board the United States SS MORMACLAND and acting under authority of his document.

On 7 November 1966, at Rio de Janeiro, Brazil, Appellant was unfit to stand his watch due to intoxication.

On 9 November 1966, at Rio de Janeiro, Appellant reported for watch under the influence of intoxicants and was ordered not to come into the engine room in this condition.

On 10 November 1966, again at Rio de Janeiro, Appellant failed to perform his duties by reason of intoxication.

On 25 November, while the ship was in the port of Buenos Aires, Brazil, Appellant reported for watch under the influence of intoxicants. He was ordered out of the engine room by the First Assistant Engineer, but refused to obey the order. The Chief Engineer was called and he also ordered Appellant to leave the engine room, with the same negative results. The master was summoned and at his orders Appellant left. The master accompanied Appellant to his quarters and tried to search for alcoholic beverages he suspected Appellant had hidden. In spite of the master's order to remain in the room, appellant was found wandering through the passageways behaving in a boisterous and belligerent manner. He was finally placed in irons until he become sober.

On 3 December 1966, at Rio de Janeiro, Appellant failed to perform his lawful duties.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the order is excessive.

OPINION

Appellant pleaded guilty to five of the nine specifications of misconduct, and was found guilty of the remaining specifications upon reliable and substantial evidence.

It is obvious that Appellant's difficulties at sea are due to his propensity for drinking intoxicants. By being in an unfit condition numerous times on this voyage, Appellant placed the burden of performing his work upon his fellow crewmen. This is contrary to good order and discipline, and thus to the safety of life and property aboard the vessel. In view of this undesirable conduct, and Appellant's prior record of misconduct, I find that the Examiner's order is not excessive.

It is noted that the Examiner questioned Appellant about his prior record without Appellant's expressed consent, and before he made his finding of guilt. This is contrary to the procedure set

forth in 46 CFR §137.20-160. The error is considered harmless, however, in this particular case.

ORDER

The order of the Examiner dated at New York City, New York on 29 December 1966, is AFFIRMED.

W.J. SMITH
Admiral U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 6th day of July 1967.

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