

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-648745-D8 AND ALL
OTHER SEAMAN DOCUMENTS

Issued to: Sherman MCGRUDER

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1660

Sherman MCGRUDER

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 19 January 1967, an Examiner of the United States Coast Guard at Houston, Texas, suspended Appellant's seaman documents for 12 months outright plus 12 months on 18 months' probation upon finding him guilty of misconduct. The specifications found proved allege: (1) that while serving as an oiler on board the United States SS CHARLES LYKES under authority of the document above described, on or about 30 and 31 October 1966, and 1 November 1966, Appellant did wrongfully absent himself from the vessel while it was in the port of Manila, Republic of the Philippines; (2) that Appellant, while serving as indicated above, on or about 2 through 9 November 1966, between the hours of 0000 and 0800, did wrongfully absent himself from the vessel while it was in the port of Manila, Republic of the Philippines; (3) that Appellant, while serving as indicated above, on or about 15 November 1966, between the hours of 0000 and 0400, did wrongfully fail to perform his assigned duties due to intoxication while the vessel was in the port of Manila, Republic of the Philippines; (4) that Appellant, while serving as indicated above, on or about 23 and 24 November 1966, between the hours of 0000 and 0800, did wrongfully absent himself from the vessel while it was in the port of Saigon, Viet Nam; (5) that Appellant, while serving as indicated above, on or about 28 and 29 November 1966, between the hours of 0000 and 0800, did wrongfully absent himself from the vessel while it was in the port of Saigon, Viet Nam; (6) that Appellant while serving as indicated above, on or about 3 and 4 December 1966, between the hours of 0000 and 0800, did wrongfully absent himself from the vessel while it was in the port of Saigon, Viet Nam; and (7) that Appellant, while serving as indicated above, on or about 9 December 1966, between the hours of 0000 and 0800, did wrongfully absent himself from the vessel while it was in the port of Saigon, Viet Nam.

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

The Investigating Officer introduced in evidence entries from the ship's Shipping Articles and Official Logbook.

Appellant offered nothing in his defense.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specifications had been proved by plea. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of 12 months outright plus 12 months on 18 months' probation.

The entire decision was served on 2 February 1967. Appeal was timely filed on 7 February 1967.

FINDINGS OF FACT

The facts are as indicated above in the specifications found proved. In addition, Appellant has a prior disciplinary record involving a three months suspension plus three months on twelve months' probation in 1959 for wrongful possession of liquor, threatening 2nd mate with bodily harm, and assault and battery of Master and 2nd mate; a one month suspension plus three months on eighteen months' probation in 1961 for failure to perform; a three month suspension on nine months' probation in 1962 for failure to join; a six months suspension in 1963 for failure to perform; and a four month suspension plus four months on twelve months' probation in 1964 for failure to perform.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the order of the Examiner is excessive in view of the total circumstances surrounding Appellant's misconduct.

OPINION

In my judgement, the facts of record in this proceeding amply warrant the order entered by the Examiner. If there are mitigating circumstances, they have not been disclosed and I must conclude that the order of the Examiner should be affirmed.

ORDER

The order of the Examiner dated at Houston, Texas on 19 January 1967, is AFFIRMED.

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

Signed at Washington, D. C., this 20th day of September 1967.

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MODIFICATION OF EXAMINER'S ORDER

Failure to disclose mitigating circumstances
alleged in support of request for