

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-713705 AND ALL
OTHER SEAMEN DOCUMENTS

Issued to: Wilbur W. Ward

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1666

Wilbur W. Ward

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 21 March 1967, and Examiner of the United States Coast Guard at San Francisco, Calif., suspended Appellant's seaman documents for 6 months outright upon finding him guilty of misconduct. The specification found proved alleges that while serving as Scullion on board the United States SS PRESIDENT CLEVELAND under authority of the documents above described, on or about 19 January 1967, Appellant wrongfully deserted the vessel while it was in the port of Hong Kong.

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

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved by plea. The Examiner then entered an order suspending all documents issued to Appellant for a period of 6 months outright.

The entire decision was served on 28 March 1967. Appeal was timely filed.

FINDINGS OF FACT

On 19 January 1967, Appellant was serving as Scullion on board the United States SS PRESIDENT CLEVELAND and acting under authority of his document while the ship was in the port of Hong Kong, and wrongfully deserted the vessel. Appellant has no prior disciplinary record with this agency.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is requested that the order be modified so as to provide merely for a probationary period of suspension.

OPINION

This appeal is basically a plea for clemency which would have been more properly made at the hearing where the alleged facts relied upon in support of the plea could have been placed in evidence. Inasmuch as these alleged facts are not in evidence, they should be considered here. However, even if considered, they do not, in my opinion, warrant the requested modification of the Examiner's order. These facts concern, for the most part, the hardship which Appellant will be required to endure in the event the outright suspension ordered by the Examiner is affirmed. It seems reasonable to assume, however, that in practically every instance of suspension some hardship is likely to result. If degrees of hardship were permitted to govern the extent of suspension imposed, the regulatory purpose of these proceedings would be frustrated. Thus, I must conclude that the Examiner's order should be affirmed.

ORDER

The order of the Examiner dated at San Francisco, California, on 21 March 1967, is AFFIRMED.

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

Signed at Washington, D.C., this 31st day of October 1967.

INDEX

MODIFICATION OF EXAMINER'S ORDER

hardship as basis for

ORDER OF EXAMINER

commensurate with offense

hardship as basis for modification of