

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-1043267-D4 AND  
ALL OTHER SEAMAN'S DOCUMENTS  
Issued to: GERALD W. BAYLESS

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1870

GERALD W. BAYLESS

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 14 October 1970, an Examiner of the United States Coast Guard at San Francisco, California, suspended Appellant's seaman's documents for four months, upon finding him guilty of misconduct. The specifications found proved allege that while serving as an AB seaman on board SS SEATRIN FLORIDA under authority of the document above captioned, Appellant:

- (1) On 14 March 1970, at Oakland, California, failed to perform his assigned duties;
- (2) On 6 and 7 April 1970, at Kaohsiung, Formosa, failed to perform assigned duties;
- (3) On 14 April 1970, at Sattahip, Thailand, failed to perform assigned duties;
- (4) On 16 April 1970, at sea, failed to perform assigned duties; and
- (5) On 19 April 1970, at Da Nang, RVN, failed to perform assigned duties.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to each specification except the first, to which he pleaded guilty.

The Investigating Officer introduced in evidence voyage records of SEATRIN FLORIDA and the testimony of the master.

In defense, Appellant offered in evidence his own testimony and voluminous argument with the master.

At the end of the hearing, the Examiner rendered a written

decision in which he concluded that the charge and specifications had been proved, the first specification by plea. The Examiner then entered an order suspending all documents issued to Appellant for a period of four months.

The entire decision was served on 3 November 1970. Appeal was timely filed on the same date. Although Appellant had until 30 June 1971 to do so, he has added nothing to his original notice of appeal.

#### FINDINGS OF FACT

On all dates in question, Appellant was serving as an AB seaman on board SS SEATRAN FLORIDA and acting under authority of his document.

On 14 March 1970, at Oakland, California, Appellant failed to perform assigned duties.

On 6 7 April 1970, at Kaohsiung, Formosa, Appellant failed to perform assigned duties.

On 14 April 1970, at Sattahip, Thailand, Appellant failed to perform assigned duties.

On 16 April 1970, at sea, Appellant failed to perform assigned duties.

On 19 April 1970, at Da Nang, RVN, Appellant failed to perform assigned duties.

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the official entries were not made in compliance with law, and that the master lied.

APPEARANCE: pro se.

#### OPINION

I

Appellant's criticism of the official log book entries can be dealt with briefly. With respect to the first specification, it is irrelevant because Appellant pleaded guilty to that. With respect to the others, it is pointed out that Appellant argues literal compliance with 46 USC 702. Literal compliance with that section is not the criterion; substantial compliance is. See Decisions on

Appeal 1079, 1082, 1083, 1364, and 1727. The Examiner did not accept these log entries as prima facie evidence of the facts therein but only as entries made in the regular course of business. 46 CFR 137.20-107. As such, they were at least corroborative of the master's testimony (see Decision on Appeal No. 1394), if not, in and of themselves, substantial evidence such as to support findings, a question I need not consider.

## II

The argument that the master lied was made before the Examiner. The trier of facts accepted the master's testimony as true. Since it was not intrinsically false (but was in fact inherently credible, a conclusion supported by Appellant's own conduct at the hearing itself), there is no reason to disturb the Examiner's findings.

### ORDER

The order of the Examiner dated at San Francisco, California, on 14 October 1970, is AFFIRMED.

C. R. Bender  
Admiral, U.S. Coast Guard  
Commandant

Signed at Washington, D.C., this 24th day of March 1972.

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