

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-182230-D1 AND
ALL OTHER SEAMAN DOCUMENTS

Issued to: ALFONSE R. MACHOWSKI

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

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ALFONSE R. MACHOWSKI

Title 46 CFR, Subpart 137.12, provides for review by the Commandant, on his own motion, of merchant seamen suspension and revocation proceedings in which there has been a guilty finding in an examiner's decision. These regulations further provide, *inter alia*, for such a motion within sixty days after the decision is announced or has been made effective, whichever date is later. Pursuant to this regulation, the decision in the case of subject seaman, dated 31 July 1958 at San Francisco, California, is hereby called up for review by my order, on the below noted date, for the purpose of modifying the order of suspension imposed by the Examiner.

Appellant's seaman documents were suspended by the Examiner upon finding him guilty of misconduct. The specification alleges that while serving as a messman on board the United States SS WILLIAM LUCKENBACH under authority of the document above described, on or about 6 May 1958, Appellant became incompetent to perform his duties aboard ship as a result of indulgence in alcoholic liquors to the extent that it became necessary to hospitalize Appellant at Guam, thus depriving the ship of his services for the remainder of the voyage.

At the hearing, Appellant entered a plea of guilty to the charge and specification. The Investigating Officer introduced in evidence a certified copy of Appellant's clinical record at the Guam hospital and a U. S. Public Health Service Hospital report that Appellant was fit for duty on 14 July 1958. Appellant made a statement that he had been drinking because of personal problems but that he no longer drank alcoholic beverages. The Examiner concluded that the charge and specification had been proved by plea. He then entered an order suspending all documents, issued to Appellant, for a period of ten years on ten years' probation.

FINDINGS OF FACT

From 14 April to 6 May 1958, Appellant was serving as a messman on board the United States SS. WILLIAM LUCKENBACH and acting under authority of his Merchant Mariner's Document No.

Z-182230-D1. During this period of time, Appellant was drinking excessive quantities of alcoholic beverages.

On 6 May 1958, Appellant was removed from the ship and admitted to the U.S. Naval Hospital at Guam with an acute case of delirium tremens. Appellant received treatment until 31 May when he was repatriated to the United States. He was an outpatient at the U.S. Public Health Service Hospital, San Francisco, from 18 June to 14 July. On the latter date, he was released as "fit for duty".

Appellant has no prior disciplinary record during 17 years at sea.

OPINION

There is no doubt that Appellant was guilty of the offense alleged. Nevertheless, it is my opinion that both the periods of suspension and probation are excessive, particularly in view of the regulations which permit a seaman to apply for the issuance of a new document, without assurance of obtaining it, either one or three years after it has been revoked. 46 CFR 137.03-30. If this ten-year suspension became effective as a result of violation of probation within ten years, it is likely that the resulting ten-year suspension would subject Appellant to greater deprivation than if his documents had been revoked. Accordingly, the order will be reduced in length of time.

ORDER

The order of the Examiner dated at San Francisco, California, on 31 July 1958, is modified to provide that Merchant Mariner's Document No. Z-182230-D1, and all other seaman documents issued to appellant by the United States Coast Guard or its predecessor authority, are suspended for a period of twelve (12) months. This suspension shall not become effective provided no charge under R.S. 4450, as amended (46 U.S.C. 239), involving the use of alcohol, narcotics or barbiturates, of any kind, is proved against Appellant for acts committed with twenty-four (24) months from the date of service of the Examiner's initial decision on Appellant himself.

As so MODIFIED, said order is

AFFIRMED.

J. S. Hirshfield
Rear Admiral, U. S. Coast Guard
Acting Commandant

Dated at Washington, D.C., this 10th day of September, 1958.

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