

In the Matter of Merchant Mariner's Document No. Z-822967-D4 and
all other Seaman Documents
Issued to: WILLIE D. HUBBARD

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1455
WILLIE D. HUBBARD

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 12 March 1964, an Examiner of the United States Coast Guard at New York, New York suspended Appellant's seaman documents for three months outright plus three months on twelve months' probation upon finding him guilty of misconduct. The offenses alleged in the specifications were proved by evidence that while serving as a utilityman on board the United States SS MORMACPENN under authority of the document above described, Appellant failed to perform his duties on six occasions between 26 December 1963 and 18 January 1964. Each specification is supported by an entry in the ship's Official Logbook.

Since Appellant was not present or represented at the hearing, the Examiner entered pleas of not guilty on behalf of Appellant and conducted the hearing in absentia.

On appeal, Appellant claims that he went to the Custom House twice, "but the secretary to the examining officer was not in. During this time I had sickness in the family and had to leave the

city immediately. I'm not guilty of the charges. . . ."

OPINION

On 5 February 1964, Appellant was served with the charge and specifications and summoned to appear for a hearing at 1000 on 27 February in the Custom House, New York City. The hearing was not started until 1045 in order to give Appellant ample opportunity to appear in his defense but no word was received from him.

Appellant's excuse for not being present is not acceptable. He does not state when he went to the Custom House or when he left the city. Presumably, he had time to make a telephone call to the Coast Guard if he had time to visit the Custom House twice. Certainly, some Coast Guard personnel were available with whom Appellant could have left a message on a weekday. If he went to the Custom House on a week end before leaving town, he had at least several days to contact the Coast Guard from out of town because 27 February, the day of the hearing, was a Thursday. Since nothing was heard from Appellant until his notice of appeal was received on 10 April, his long-delayed explanation that he had to leave the city hurriedly because of sickness in the family lacks conviction.

The logbook entries constitute substantial evidence that Appellant is guilty of the offenses alleged. These six incidents of failing to perform duties within a period of less than one month justify the order imposed by the Examiner. Therefore, there is no basis for leniency in this case.

ORDER

The order of the examiner dated at New York, on 12 March 1964, is AFFIRMED.

J. A. ALGER, JR.
Rear Admiral, United States Coast Guard
Acting Commandant

Signed at Washington, D. C., this 2nd day of June, 1964.

***** END OF DECISION NO. 1455 *****

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