

In the Matter of Merchant Mariner's Document No. Z-51955-D2
Issued to: FRANK GERARD BRENNAN

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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FRANK GERARD BRENNAN

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 14 February, 1952, an Examiner of the United States Coast Guard at New York City suspended Merchant Mariner's Document No. Z-51955-D2 issued to Frank Gerard Brennan upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as Third Assistant Engineer on board the American SS ATLANTIC SHIPPER under authority of the document above described, on or about 14 December, 1951, while said vessel was in the port of Antwerp, Belgium, he wrongfully failed to join his vessel on its departure from that port.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer and Appellant made their opening statements. Appellant stated that he had gone ashore after the 0800 to 1200 watch and did not return before the posted sailing time of 1500. He arrived at the dock in time to see his ship heading downstream and would have been in time to catch it except that another ship came into the harbor to berth at the same dock.

At the conclusion of the hearing, having given both parties an opportunity to submit argument and proposed findings and conclusions, the Examiner announced his findings and concluded that the charge and specification had been proved by plea. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-51955-D2, and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of seven months; three months' outright suspension commencing 14 January, 1952, and the balance of four months on probation for twelve months from 14 April, 1952.

From that order, this appeal has been taken, and it is urged that the order is excessive and it imposes an undue hardship upon Appellant since going to sea has been his livelihood for more than fifteen years.

Based upon my examination of the Record submitted, I hereby make the following

FINDINGS OF FACT

On 14 December, 1951, Appellant was in the service of the American SS ATLANTIC SHIPPER as Third Assistant Engineer and acting under authority of his Merchant Mariner's Document No. Z-51955-D2. A sailing notice was posted stating that departure was scheduled for 1500 on 14 December, 1951. Appellant was aware of the scheduled sailing time.

Appellant went ashore to do some shopping and visiting after standing the 0800 to 1200 watch on 14 December, 1951. He became preoccupied and failed to return to the dock until about an hour after his ship had gotten underway. Appellant was unable to join the vessel and was repatriated to this country.

Appellant's prior disciplinary record consists of a one year suspension in 1944 for absence without leave, failure to join and refusal to obey orders; and a suspension of one month in 1951 for an altercation aboard ship.

OPINION

I am in accord with the views expressed by the Examiner that Appellant's failure to join was caused exclusively by his own misconduct in disregarding his obligation to be aboard prior to the scheduled sailing time; that the standards of conduct required by licensed seamen are higher than those for non-licensed personnel aboard ship; and that Appellant endangered the ship by causing it to sail shorthanded as well as imposing hardship upon those who were required to share his watches.

For the above reasons and because of Appellant's prior record, I do not think that any leniency should be granted as requested by Appellant in the appeal.

In view of the fact that Appellant had been ashore since 10 January, 1952, the Examiner ordered the three months' outright suspension to be effective as of 14 January, 1952.

ORDER

The order of the Examiner dated 14 February, 1952, should be, and it is, AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 2nd day of June, 1952.

***** END OF DECISION NO. 571 *****

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