

In the Matter of Merchant Mariner's Document No. Z-249761-D2  
Issued to: MARIO COLON

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

691

MARIO COLON

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 4 May, 1953, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-249761-D2 issued to Mario Colon upon finding him guilty of misconduct based upon three specifications alleging in substance that while serving as wiper on board the American SS LENA LUCKENBACH on or about 19 November, 1951; the SS HIBUERAS on or about 13 September, 1952, and the SS ANCON on or about 17 April, 1953, under authority of the document above described, while said vessels were in the port of Cristobal, Canal Zone, he wrongfully failed to join each of said vessels.

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. Because Appellant appeared to have difficulty in understanding all that was told, the Examiner had an interpreter called and then

restated all of the preliminary explanations which had been given. Appellant again stated, through the interpreter that he wished to act as his own counsel, and entered a plea of "guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made a statement of the facts that had come to his attention before the charge was filed; and Appellant (speaking through the interpreter) made a sworn statement undertaking to explain the circumstances which caused him to miss the vessels on each of the occasions in question.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-249761-D2 and all other seaman's papers issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged:

1. Going to sea is Appellant's only means of earning a livelihood for his family and himself;
2. His conduct was due to his "inexperience in life"; and
3. He is truly sorry for his actions; and asks for a suspension of his documents instead of revocation thereof.

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

#### *FINDINGS OF FACT*

On three separate and distinct occasions, Appellant was serving, under authority of Merchant Mariner's Document No. Z-249761-D2, as wiper, on the American steamships LENA LUCKENBACH, HIBUERAS and ANCON.

While each vessel was in the port of Cristobal, Canal Zone, he departed from the vessel, and failed to return before her departure on the next leg of the voyage for which his services were engaged.

In each instance, it was necessary that he be repatriated on another vessel destined to the United States. The Record shows he left the SS LENA LUCKENBACH on or about 19 November, 1951; had a few beers ashore and returned two or three hours after the vessel was posted to depart. He returned to the United States on the SS MARINE SNAPPER, as workaway, on 2 December, 1951.

The SS HIBUERAS arrived off Cristobal on 12 September, 1952, Appellant went ashore, visited with some friends, and failed to return before the vessel departed on 13 September, 1952. He gives no rational explanation for this failure; but was repatriated on the SS FRA BERLANGER on 20 September, 1952.

Appellant left the SS ANCON on 17 April, 1953; but failed to return to the vessel before her departure, because, he says, an alarm clock failed to awaken him in time. He was later returned, on 24 April, 1953, on the SS PANAMA.

This Appellant is 31 years of age and has been sailing since about 1945. His earlier record as a merchant seaman is:

February 1946, admonished for absence without leave;

11 March, 1950, admonished for failure to join SS  
AGWIKING at Havana, Cuba;

29 January, 1951, document suspended for 3 months on 9 months'  
probation, for failure to perform duties, and  
failure to join  
SS HEREDIA when that vessel departed  
Cristobal, Canal Zone;

25 January, 1952, document was suspended for 10 months,  
of which the first 4 months were outright; the  
remaining 6 months were not to be made  
effective provided no charge under R.S. 4450  
was proved against Appellant for offenses

committed within 12 months of 25 May, 1952.  
His offenses on this occasion were failure to  
perform duties on SS MOHAWK at Buenos Aires on  
11 July, 1951, and failure to join that vessel  
at the time of departure from that port.

*OPINION*

The Examiner has discussed the facts in this case to my  
complete satisfaction and I have nothing to add. I adopt, for this  
proceeding, his Opinion as my own.

No good reason has been presented for my intervention with the  
Examiner's Order dated at New York, New York, on 4 May, 1953, and  
that Order is AFFIRMED.

A. C. Richmond  
Rear Admiral, United States Coast Guard  
Acting Commandant

Dated at Washington, D. C., this 10th day of August, 1953.

\*\*\*\*\* END OF DECISION NO. 691 \*\*\*\*\*

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