

In the Matter of Merchant Mariner's Document No. Z-408555 and all  
other Licenses, Certificates and Documents  
Issued to: LEO GEORGE JAGODZINSKI

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

897

LEO GEORGE JAGODZINSKI

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.

By order dated 1 November 1955, an Examiner of the United States Coast Guard at New York, New York, suspended Merchant Mariner's Document No. Z-408555 issued to Leo George Jagodzinski upon finding him guilty of incompetence based upon one specification alleging in substance that while serving as engine storekeeper on board the American SS SANTA ROSA under authority of the document above described, on or about 27 August 1955, while said vessel was at sea, he was unfit for sea duty by reason of a chronic mental disturbance, and that this condition continued to the date of hearing.

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 counsel of his own choice, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and specification

preferred against him.

Thereupon, the Investigating Officer and Appellant made their opening statements and the Investigating Officer introduced in evidence the testimony of a Customs Agent, the testimony of a psychiatrist, and three documents: a certified copy of an entry in the Shipping Articles of the SS SANTA ROSA, a certified copy of an Official Logbook entry of that vessel, and a transcript of a statement made by Appellant to Customs Agents.

After the Investigating Officer completed presenting his evidence, Appellant expressed an intention to enter a voluntary deposit agreement such as is contemplated in 46 CFR 137.05-5(a)(4). The Examiner set a date for continuance at which time Appellant might have presented his defense or the Investigating Officer might have moved for a dismissal on the basis of the voluntary deposit. Appellant refused to enter the agreement submitted to him, left his Merchant Mariner's Document with the Investigating Officer, and did not appear at the time set for continuance.

At the conclusion of the hearing, the Examiner announced his decision and concluded that the charge and specification had been proved. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-408555 and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority until such time as Appellant might be pronounced fit for duty by a U. S. Public Health Service Psychiatrist who has considered not only Appellant's then present mental condition but also his past mental-medical history.

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

#### *FINDINGS OF FACT*

On 27 August 1955, Appellant was serving as engine storekeeper on board the American SS SANTA ROSA and acting under authority of his Merchant Mariner's Document No. Z-408555.

While serving aboard the SANTA ROSA, Appellant represented

himself variously as an admiralty attorney from Baltimore who was taking a vacation on the vessel, and as an agent for a representative of the U. S. Customs Service, who was engaged in undercover work in the detection of narcotics traffickers.

Shortly after this voyage of the SANTA ROSA, Appellant was interviewed by the agent of the U. S. Customs Service for whom he had purported to be working. At this time he accused several persons in the crews of the SS SANTA ROSA and SS MORMACMAIL of dealing in narcotics.

On the basis of the conduct reported, Appellant was referred to the U. S. Public Health Service Hospital at Stapleton, New York, for examination. The examining psychiatrist came to the conclusion, after considering Appellant's medical history, and after interview and testing, that Appellant was suffering from schizophrenia - paranoid type.

#### *BASIS OF APPEAL*

Appellant contends that he was deceived as to the time of continuance of the hearing and he was thus deprived of the right to represent his defense.

#### *OPINION*

Appellant's contention that he was deceived as to the time of continuance of his hearing is not supported by the record.

On 27 October 1955, after the Investigating Officer had rested, the Examiner adjourned until 1400 on 1 November 1955, for the convenience of Appellant. Five times the Examiner mentioned the day of continuance; twice he mentioned the time.

On the date set, Appellant consulted with the Investigating Officer at about 0900. He was advised to return for the continuance but did not do so.

On the whole record it appears that every effort was made to give Appellant a fair hearing.

Because of the nature of the charge in this case, I have taken especial care to see that no harshness in dealing with Appellant occurred. I have noted that neither the Examiner's order nor my affirmation of it leaves Appellant in any the worse position. The Investigating Officer's prima facie case required reply in the nature of competent medical proof of Appellant's fitness. Under the terms of the order, the way is always open for Appellant to present such proof. In order that there may be no misunderstanding as to the final statutory responsibility for the certification of Appellant as fit for duty, the Order of the Examiner will be reworded to indicate clearly that any future report which Appellant may obtain from the U. S. Public Health service is to be submitted to the U. S. Coast Guard for determination of Appellant's fitness for duty.

*ORDER*

The Order of the Examiner dated at New York on 1 November 1955 is MODIFIED to read

That Merchant Mariner's Document No. Z-408555 and all other documents, licenses and certificates issued by the U. S. Coast Guard or its predecessor authority to Appellant are suspended outright, effective immediately upon the service upon Appellant of this Decision. The said outright suspension shall remain in effect until such time as Appellant produces a certificate from the U.S. Public Health Service setting forth what, if any, mental or physical deficiencies are found to exist, from which it can be determined, and at which time it will be determined by the U.S. Coast Guard whether or not the documents suspended hereby shall be restored;

and as so MODIFIED, the Order is

AFFIRMED.

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

Dated at Washington, D. C., this 23rd day of May, 1956.

\*\*\*\*\* END OF DECISION NO. 897 \*\*\*\*\*

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[Top](#)