

In the Matter of License No. 130657 and Merchant Mariner's Document
No. Z-341522 and all other Licenses and Documents
Issued to: WILLIAM W. BERWALD

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

931

WILLIAM W. BERWALD

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

By order dated 30 July 1956, an Examiner of the United States Coast Guard at Boston, Massachusetts, suspended License No. 130657 and Merchant Mariner's Document No. Z-341522 issued to William W. Berwald upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as Third Assistant Engineer on board the American SS AFRICAN GROVE under authority of the license above described, on or about 21 June 1956, while said vessel was at sea, he wrongfully failed to stand his 0000 to 0400 watch (First Specification); and on or about 21 July 1956 while the vessel was at Takoradi, Gold Coast, he was absent from his duties without permission (Second Specification).

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 First Specification and

"guilty" to the Second Specification.

The Investigating Officer made his opening statement. He then introduced in evidence an entry in the Official Logbook of the ship and the testimony of the Chief Engineer. Appellant testified in his defense.

At the conclusion of the hearing, having given both parties an opportunity to submit argument and proposed findings and conclusions, the Examiner announced his decision and concluded that the charge and two specifications had been proved. He then entered the order suspending Appellant's License No. 130657, Merchant Mariner's Document No. Z-341522, and all other licenses and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of two months - one month outright suspension and one months suspension on probation until six months after the termination of the outright suspension.

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

FINDINGS OF FACT

On a foreign voyage including the period from 20 June 1956 to 11 July 1956, Appellant was serving as Third Assistant Engineer on board the American SS AFRICAN GROVE and acting under authority of his License No. 130657.

The ship was at sea on the night of 20 June 1956 after having departed from Matadi, Belgian Congo, earlier in the day. At 2345 on this date, the Chief Engineer called Appellant for his regularly assigned 0000 to 0400 sea watch on 21 June. Although Appellant had been drinking intoxicating liquor earlier in the day, he was fit to stand his 0000 to 0400 engine room watch but he told the Chief Engineer that he refused to do so. Appellant did not stand the watch.

On 10 July 1956, while the ship was at Takoradi, Gold Coast, Appellant was absent from his duties without permission.

Appellant has been employed steadily on United States merchant

vessels since 1942. His prior records consists of a two months suspension in 1945 for failure to join and two admonitions - one in 1942 and the other in 1945.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. The sole ground is a request for review of the Examiner's decision.

OPINION

A review of the record convinces me that the order imposed by the Examiner was very lenient. Appellant's offense of wrongfully failing to stand his watch on 21 June was aggravated by his refusal to stand the watch when confronted by the Chief Engineer. This act of arbitrary insubordination directed toward the senior officer in the Engine Department was a serious breach of discipline in itself and also set a poor example for the unlicensed members of the crew.

Appellant's conduct on 21 June was an offense directly related to the safety of the vessel at sea and placed an additional burden on the other licensed officers in the Engine Department. In view of Appellant's experience, he must have realized that it is a particularly serious offense for a licensed officer to fail to perform his assigned duties at sea. His responsibility is greater than that of an unlicensed member of the crew. The order of the Examiner will be sustained.

ORDER

The order of the Examiner dated at Boston, Massachusetts, on 30 July 1956, is AFFIRMED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 5th day of November, 1956.

***** END OF DECISION NO. 931 *****

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