

In the Matter of Merchant Mariner's Document No. Z-200744-D2 and
all other Licenses, Certificates and Documents
Issued to: OSCAR STEWART

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

934

OSCAR STEWART

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 14 August 1956, an Examiner of the United States Coast Guard at New York, suspended Merchant Mariner's Document No. Z-200744-D2 issued to Oscar Stewart upon finding him guilty of misconduct based upon ten specifications alleging in substance that while serving as a deck maintenanceman on board the American SS REMSEN HEIGHTS under authority of the document above described, between 16 April and 27 April 1956, while said vessel was on a foreign voyage, he wrongfully failed to perform his duties due to intoxication on eight occasions; he once left his undocking station without authority; and he failed to join the ship at a foreign 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 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 seven specifications and "guilty" to the other three.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence certified copies of entries in the Official Logbook of the REMSEN HEIGHTS. Appellant testified in his behalf.

At the conclusion of the hearing, having given both parties an opportunity to submit arguments, the Examiner announced his decision and concluded that the charge and ten specifications had been proved. He then entered the order suspending Appellant's Merchant Mariner's Document No. 200744-D2, and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of nine months - six months' outright suspension and three months' suspension on probation until twelve months after the termination of the outright suspension. This order includes a prior four months' probationary suspension.

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

FINDINGS OF FACT

Between 17 April and 27 July 1956, Appellant was serving as a deck maintenanceman on board the American SS REMSEN HEIGHTS and acting under authority of his Merchant Mariner's Document No. Z-200744-D2 while the ship was on a foreign voyage.

Appellant failed to perform his duties due to intoxication at the following ports on the dates indicated: Beirut, Lebanon, on 17 and 18 April; Port Sudan, Anglo-Egyptian Sudan, on 10 May; enroute to Japan on 4 June; Kobe, Japan, on 14 June; San Francisco, on 2 July; and San Juan, Puerto Rico, on 25 and 26 July.

While at Beirut on 18 April, appellant left his undocking station at 0650 without permission.

On 17 June, Appellant failed to join his ship upon her

departure from Shimizu, Japan, at 0700. Appellant rejoined the ship at Yokohama on 19 June.

Appellant's prior record consists of a probationary suspension in January 1955 for failure to join and a probationary suspension (four months suspension on twelve months probation) in March 1956 for failure to perform duties due to intoxication on various dates.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant requests the return of his document on the following grounds:

Appellant was bothered by a sinus condition; Appellant was suffering from the loss of both parents within the past year. Appellant has been working on ships since 1934 without serious trouble prior to the death of his parents; this is his only livelihood to support his family; Appellant has now recovered and is competent to sail customary good seamanship.

OPINION

Since the six months' outright suspension in this case includes a prior probationary suspension of four months, Appellant received only an additional outright suspension of two months plus a probationary suspension for the numerous offenses proved herein, In view of Appellant's prior record of similar offenses, the order imposed is considered to be extremely lenient. Appellant not only failed to carry out his obligations on the ship but he placed a heavier burden on his shipmates who had to do his work for him on many occasions. Appellant's personal unhappy experiences are unfortunate but they are not acceptable as excess for Appellant's repeated failures to do his job on United States merchant vessels. For these reasons, the order of the Examiner will not be modified.

ORDER

The order of the Examiner dated at New York, New York, on 14 August 1956, is AFFIRMED.

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

Dated at Washington, D. C., this 14th day of November, 1956.

***** END OF DECISION NO. 934 *****

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