

In the Matter of Merchant Mariner's Document No. Z-126518-D2 and
all other Documents

Issued to: ENRIQUE SOTO ALVAREZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

939

ENRIQUE SOTO ALVAREZ

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.

An Examiner of the United States Coast Guard conducted a hearing at New York, New York, and, by order dated 27 July 1955, suspended Appellant's documents upon finding him guilty of misconduct. Four specifications alleged, in substance, that while serving as an ordinary seaman on board the American SS MOBILIAN under authority of the document above described, Appellant wrongfully failed to perform his duties on four occasions.

The Examiner concluded that the charge and four specifications had been proved. He then suspended Appellant's documents for two months outright and four months on twelve months probation.

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

FINDINGS OF FACT

Between 4 April and 21 July 1955, Appellant was serving as an ordinary seaman on board the American SS MOBILIAN and acting under authority of his Merchant Mariner's Document No. Z-126518-D2.

On 17 May 1955, Appellant was absent from his duties for three hours without leave.

On 18 May 1955, Appellant failed to stand his assigned duty as gangway watch.

On 23 May 1955, Appellant was unable to stand his wheel watch due to intoxication.

On 25 May 1955, Appellant left his assigned duty as gangway watch without having been relieved.

Appellant has no prior record.

OPINION

Appellant submitted a notice of appeal in which he stated that he would give the reasons for the appeal after consultation with his attorney. Since nothing further has been heard from Appellant, this case has been reviewed on the record as it now stands without any specified grounds for appeal.

There is no duty imposed on this agency to reexamine the record completely when a blanket appeal is taken, as in this case, and no grounds for appeal are specified. Review of the decision should be limited to grounds specified in the appeal in the absence of clear error. *Attorney General's Manual on the Administrative Procedure Act* (1947), page 84. Since no grounds for appeal have been specified by Appellant, and there is no clear error in the record, the order will be affirmed.

The procedure for taking appeals is set forth in 46 CFR 137.11-1. Particular attention should be paid to the requirement that the notice of appeal shall contain a statement of each

separate grounds for the appeal. A memorandum brief and additional specific exceptions to the decision may be submitted after the notice of appeal has been filed. But the original notice of appeal is not acceptable if there are no specified grounds contained in the so-called notice of appeal.

ORDER

The order of the Examiner dated at New York, New York, on 27 July 1955, is AFFIRMED.

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

Dated at Washington, D.C., this 3rd day of December, 1956.

***** END OF DECISION NO. 939 *****

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