

In the Matter of Merchant Mariner's Document No. Z-627722-D1 and
all other Licenses and Documents
Issued to: HENRY H. FOUNTAIN

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

949

HENRY H. FOUNTAIN

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 Seattle, Washington, and, by order dated 31 August 1956, suspended the seaman documents of Appellant upon finding him guilty of misconduct. Eleven specifications allege in substance that while serving as Chief Steward on board the American SS BATTLE ROCK under authority of the document above described, Appellant wrongfully failed to perform his duties due to intoxication on eleven different days; he wrongfully had possession on intoxicants on three occasions; he wrongfully failed to obey a lawful order of the Master; and he was wrongfully absent from the ship once.

The Examiner concluded that the charge and eleven specifications were proved by certified copies of entries in the ship's Official Logbook. He then suspended Appellant's documents for three months outright and nine months on fifteen months probation.

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

FINDINGS OF FACT

On a foreign voyage extending from August 1955 to August 1956, Appellant was serving as Chief Steward on board the American SS BATTLE ROCK and acting under authority of his Merchant Mariner's Document No. Z-627722-D1.

On the following dates, Appellant wrongfully failed to perform his duties due to intoxication: 5 December 1955; 16 and 17 January 1956; 7 and 8 April 1956; 21 and 22 May 1956; 13, 14, 15 and 16 July 1956.

On 17 January, 8 April and 16 July 1956, Appellant wrongfully had possession of intoxicants on board the ship.

On 20 May 1956, Appellant wrongfully failed to obey a lawful order of the Master to stay on board and load stores. Appellant disregarded this order and went ashore. He returned on board the next day.

Appellant has no prior record during 12 years of service.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant claims that the Master of the BATTLE ROCK logged Appellant numerous times because of a personal dislike for Appellant. It is urged that the order is harsh since Appellant is almost the sole source of support for his parents.

OPINION

The certified copies of entries in the Official Logbook make out a prima facie case in support of the allegations contained in the eleven specifications. There is nothing in the record to corroborate Appellant's bare statement that the loggings were due to the Master's dislike for Appellant. The consequent hardship to Appellant and his family does not justify any modification of the

order. Under the circumstance, it is very likely that the order would have been much more severe except for Appellant's prior clear record.

ORDER

The order of the Examiner dated at Seattle, Washington, on 31 August 1956 is AFFIRMED.

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

Dated at Washington D. C., this 8th day of January, 1957.

***** END OF DECISION NO. 949 *****

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