

In the Matter of Merchant Mariner's Document No. Z-33401-D1 and all
other Seaman Documents
Issued to: ROBERT MILTON PECK

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ROBERT MILTON PECK

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

By order dated 10 April 1957, an Examiner of the United States Coast Guard at New York, New York, revoked Appellant's seaman documents upon finding guilty of misconduct. Two specifications allege that while serving as an able seaman on board the American SS BRAZIL under authority of the document above described, on or about 9 March 1957, Appellant assaulted and battered the Second Officer; on or about 10 March 1957, Appellant failed to stand his watch and failed to turn to.

At the beginning of 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 elected to waive that right and act as his own counsel. He entered a plea of guilty to the charge and each specification.

The Investigating Officer made his opening statement. Appellant then made an unsworn statement in which he stated that he remembered striking the Second Mate when the Mate was trying to get Appellant to go below. Appellant admitted that he was intoxicated but claimed that he had not been drinking for seven years. Appellant also submitted a statement signed by ten crew members who stated that they would always welcome Appellant as a shipmate.

At the conclusion of the hearing, the Investigating Officer and Appellant were given an opportunity to submit proposed findings and conclusions. The Examiner then announced the decision in which he concluded that the charge and two specifications had been proved by plea. An order was entered revoking all documents issued to Appellant.

The decision was served on 15 April 1957. A letter dated 1 May requesting clemency was considered as a notice of appeal and was later supplemented by Appellant.

FINDINGS OF FACT

On a voyage including the dates of 9 and 10 March 1957, Appellant was serving as an able seaman on board the American SS BRAZIL and acting under authority of his Merchant Mariner's Document No. Z-33401-D1.

At approximately 2145 on 9 March 1957, Appellant went to his after mooring station on deck while the ship was preparing to get underway to depart from Montevideo, Uruguay. Appellant was in an intoxicated condition. The Second Mate told Appellant to go below because he had been drinking. Appellant protested and remained on deck. Another seaman told Appellant to leave and then struck Appellant. A scuffle followed and Appellant struck the Second Mate on the cheek because he was still trying to get Appellant to go below. Appellant was finally taken up forward and was unable to stand his 0000 to 0400 watch on 10 March as a result of his continued intoxication. For the same reason, Appellant failed to turn to later in the morning to assist in mooring the ship at Buenos Aires, Argentina. The Second Mate was not injured by the blow received from Appellant.

Appellant's prior record includes an admonition in 1946 for

threatening ship's officers with bodily harm, a probationary suspension in 1949 for assaulting a ship's Master, and a 12 months' outright suspension in 1950 for assaulting and battering a ship's Third Mate and another member of the crew.

BASES OF APPEAL

This appeal for clemency has been taken for the order imposed by the Examiner. Appellant has been going to sea for 30 years, he knows no other trade and he is burdened with heavy financial obligations including three children and a home. Appellant was a member of Alcoholics Anonymous and had behaved himself for 7 years until the time of this incident.

OPINION

There is no question that Appellant admitted his guilt in this case by his plea to each specification and the charge of misconduct. Appellant's pleas of guilty obviated the necessity to introduce evidence in support of the allegations contained in the specifications and no such evidence was introduced at the hearing.

In view of the serious nature of the offense of attacking a ship's officer and Appellant's prior record of similar offenses, no consideration will be given to mitigating the order of revocation despite the personal hardship to Appellant and his family. The only consolation which can be offered to Appellant at this time is that he may submit an application, on or after 15 April 1960, for the issuance of a new document in accordance with 46 Code of Federal Regulations 137.03-30. There is no assurance that such an application will be favorably acted upon; but, at such time, evidence of rehabilitation presented by Appellant will be considered.

ORDER

The order of the Examiner dated at New York, New York, on 10 April 1957, is AFFIRMED.

Dated at Washington, D. C., this 22nd day of November, 1957.

***** END OF DECISION NO. 992 *****

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