

In the Matter of License No. 233887 Merchant Mariner's Document No.
Z-815975 and all other Seaman Documents
Issued to: EDWIN SYBIAK

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1164

EDWIN SYBIAK

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 29 May 1959, an Examiner of the United States Coast Guard at New York, New York suspended Appellant's seaman documents upon finding him guilty of misconduct. The six specifications found proved allege that while serving as Fourth Mate on board the United States SS FLYING GULL under authority of the license above described, between 22 January and 5 April 1959, Appellant disobeyed a lawful order; he twice failed to perform his duties and on both occasions he was under the influence of intoxicants; Appellant had intoxicating liquor in his possession on the ship.

At the hearing, Appellant was represented by counsel of his own choice. Appellant entered a plea of not guilty to the charge and each specification except the one alleging possession of intoxicants to which he entered a plea of guilty. Evidence was introduced by both parties.

At the conclusion of the hearing, the Examiner rendered the decision in which he concluded that the charge and six specifications had been proved. An order was entered suspending all documents, issued to Appellant, for a period of three months on twelve months' probation.

FINDINGS OF FACT

On the below dates in 1959, Appellant was serving as Fourth Mate on board the United States SS FLYING GULL and acting under authority of his License No. 233887 while the ship was on a foreign voyage.

While the ship was at sea on 23 January, Appellant made a change of course without notification to, or authorization from, the Master. This was in direct disobedience of the verbal and written orders of the Master.

On 7 February, the ship was at Singapore when Appellant failed to stand his 0800 to 1200 watch. Appellant was awakened twice, but he did not get up from his bunk. He had been drinking most of the night and smelled of whisky when he was called.

At San Juan, Puerto Rico on 4 April, Appellant was in his room drinking intoxicating liquor when he was supposed to have been on deck in charge of the watch during cargo operations. The Master relieved Appellant of his duties upon finding him in his room.

Appellant's prior record consists of an admonition in 1951 for inattention to duty.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the decision is:

1. Contrary to law and the facts established by the record.
2. Not supported by reliable, probative and substantial evidence.

ORDER

The order of the Examiner dated at New York, New York, on 29 May 1959, is AFFIRMED.

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

Dated at Washington, D. C., this 29th day of April 1960.

***** END OF DECISION NO. 1164 *****

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