

In the Matter of Merchant Mariner's Document No. Z-929958-D2 and
all other Seaman Documents
Issued to: JACK BENSON STRAHAN

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1181

JACK BENSON STRAHAN

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 30 October 1959, an Examiner of the United States Coast Guard at New Orleans, Louisiana, suspended Appellant's seaman documents upon finding him guilty of misconduct. The specification alleges that while serving as a utilityman on board the United States SS ANTINOUS under authority of the document above described, on or about 28 September, 30 September and 4 October 1959, Appellant wrongfully failed to perform his assigned duties due to intoxication while the ship was in foreign ports.

At the hearing, appellant decided to act as his own counsel. he entered a plea of guilty to the alleged offense on 28 September and not guilty to the offenses charged on the other two dates.

The Investigating Officer introduced in evidence pertinent logbook entries and the testimony of the ship's Chief Steward. Appellant's defense was based solely on his unsworn statements that he was sick in bed with kidney trouble on 30 September and 4

October.

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

FINDINGS OF FACT

On a foreign voyage including the dates of 28 September, 30 September and 4 October 1959, Appellant was serving as a utilityman on board the United States SS ANTINOUS and acting under authority of his Merchant Mariner's document No. Z-929958-D2.

On 28 September while the ship was at St. Nazaire, France, Appellant failed to perform his assigned duties due to intoxication.

On 30 September, the ship was at Le Havre, France. Appellant was unable to perform his duties on the evening of this date due to intoxication (R.15). He staggered and his eyes were bloodshot (r.18,19).

On 4 October at Bremerhaven, Germany, Appellant got up for breakfast but did not perform his duties in connection with the other two meals due to his intoxication R.19). He asked the Chief Steward for medical attention in order "to get this thing out of my system" (R.16), but he did not get a doctor's slip from the Chief Mate as he was advised to do by the Chief Steward (R.16,17). Instead, Appellant stayed in bed the rest of the day in his room where there were numerous beer bottles (R.17). The Chief Steward could not get Appellant up (R.17).

His prior record consists of a probationary suspension on 31 October 1958 for failure to perform duties due to intoxication and a four months' suspension on 8 January 1959 for failure to perform duties due to intoxication, as well as for failure to join his ship.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that his decision is based on false accusations by the Chief Steward, the alleged offenses on 30 September and 4 October were not proved with reasonable certainty, the order imposed is too severe.

As to these two dates, Appellant was sick in bed but was logged due to the Chief Steward's personal dislike for Appellant.

This suspension deprives Appellant of his only livelihood.

OPINION

Appellant does not deny that he failed to perform his duties on these three dates but he attempts to justify this conduct, as to 30 September and 4 October, on the basis of a legitimate illness - kidney trouble - for which he claims to have been treated by a doctor at home (R.11, 20). Appellant's statements to this effect are completely without corroboration either at the hearing or on appeal.

On the other hand, the Chief Steward's testimony lends strong support to the statements in the logbook that Appellant, "apparently under the influence of alcoholic beverages, was unable to perform his regular duties as utilityman" on all three dates. The Chief Steward's testimony is adequate to support the above findings of fact even though his testimony is somewhat confusing in part.

The fact that, on 4 October, Appellant mentioned the need for medical attention to the Chief Steward was brought out by the questioning by the Investigating Officer. the failure of Appellant to obtain a doctor's slip on this date or, at any time, to corroborate this alleged need indicates that this was not a genuine request for medical attention as it is contended by Appellant.

There is no evidence that the Chief Steward falsely accused Appellant because of a personal dislike for him. On the contrary, the Chief Steward testified that Appellant was usually a good messman and a competent waiter; the Steward wanted Appellant to

return to the ship (R.14, 19).

The only logical conclusion is that there is substantial evidence to support the alleged offenses. The order imposed is justified in view of Appellant's prior record of similar offenses. The fact that Appellant has no other livelihood is unfortunate but this is no reason for modifying the suspension ordered by the Examiner. It is hoped that this lengthy suspension will induce Appellant to control his indulgence in intoxicating beverages after he is permitted to return to work on merchant vessels where a document is required.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 30 October 1959, is AFFIRMED.

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

Dated at Washington, D. C., this 12th day of July 1960.

***** END OF DECISION NO. 1181 *****

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