

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD vs.
LICENSE NO. 174 114
Issued to: Richard Granville FIFER

DECISION OF THE COMMANDANT ON APPEAL
UNITED STATES COAST GUARD

2315

Richard Granville FIFER

This appeal has been taken in accordance with 46 CFR 5.30-15.

By order dated 18 March 1983, an Administrative Law Judge of the United States Coast Guard at Miami, Florida revoked Appellant's mariner's license upon finding proved the charge of "conviction for a narcotic drug law violation." On 17 March 1983 Appellant file a Notice of Appeal from the Order of the Administrative Law Judge and a request for a temporary license. The Administrative Law Judge denied the request by his order of 24 March 1983.

BASES OF APPEAL

This appeal has been taken from the order of the Administrative Law Judge denying a temporary license. It is urged that Appellant's service on board a vessel is compatible with the requirements for safety of life and property at sea and Appellant's prior record justifies the issuance of a temporary license. I note that these are the criteria for issuing a temporary license set forth in 46 CFR 5.30-15 and that the Administrative Law Judge did not address them in his denial.

OPINION

The Order Denying Request for a Temporary License is not sufficient in this case.

The administrative Procedure Act requires that an agency rejection of an application "be accompanied by a brief statement of the grounds for denial." See 5 USC 555e. The grounds stated must, of course, be consistent with the applicable law and regulations.

The denial of the temporary license was based upon a pronouncement by the Commandant in 19 Fed. Reg. 6678 (16 October 1954) and Appeal Decision [985 \(SEARCY\)](#) (1957). The current criteria for granting temporary licenses or documents were published in 1974 and are set forth in 46 CFR 5.30-15(b) as follows:

- "(1) Whether the service of the individual involved on board a vessel at the time of the request or immediately thereafter, is compatible with the requirements for safety of life and property at sea.
- (2) The individual's prior record."

If a request for a temporary license or document is denied, the statement of grounds for denial must be in terms of these criteria.

Since the Criteria in the current regulation were not used in deciding whether to issue Appellant a temporary license, the request for a temporary license must be remanded to the Administrative Law Judge for reconsideration. If the request is again denied, the statement of the grounds for denial must discuss both criteria set forth in 46 CFR 5.30-15.

CONCLUSION

The order of the Administrative Law Judge denying a temporary license does not adequately support that denial. The request for the temporary license must be remanded for reconsideration in accordance with the above opinion.

ORDER

The order of the Administrative Law Judge dated 24 March 1983 denying Appellant's request for a temporary license is VACATED. The request for a temporary license is REMANDED for a new decision in accordance with the foregoing opinion.

B.L. STABILE
Vice Admiral, U.S. Coast Guard
ACTING COMMANDANT

Signed at Washington, D.C., this 6th day of June 1983.

***** END OF DECISION NO. 2315 *****

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