

IN THE MATTER OF LICENSE NO. 313727 MERCHANT MARINER'S DOCUMENT
Z-166240 AND ALL OTHER SEAMAN'S DOCUMENTS

Issued to: John Arthur MEYER

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1805

John Arthur MEYER

This appeal has been taken in accordance with Title 46 United States Code 239 (g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 27 January 1969, an Examiner of the United States Coast Guard at Houston, Texas suspended Appellant's seamen's documents for three months on twelve months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as master of SS TAMARA GUILDEN under authority of the document and license above captioned, on or about 9 July 1967, Appellant, at Freeport, Grand Bahamas Island, wrongfully entered in the log book false draft and load line readings.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence voyage records of TAMARA GUILDEN and computations based thereon, and the load line certificate.

In defense, Appellant offered no evidence, but submitted to the Examiner, after the hearing had closed, certain letters which had no relevance to the charge found proved.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of three months on twelve months' probation.

The entire decision was served on 10 March 1969. Appeal was timely filed on 8 April 1969. Although Appellant had until 24 November 1969 to add to his originally stated grounds, he has not done so.

FINDINGS OF FACT

On 9 July 1967, Appellant was serving as master of SS TAMARA GUILDEN and acting under authority of his license and document while the ship was in the port of Freeport, Grand Bahamas Island.

On 9 July 1967, when TAMARA GUILDEN sailed from Freeport, Grand Bahamas Island, the mean draft of the vessel was thirty-five feet, one and a quarter inches, leaving a freeboard of thirteen feet, five and a quarter inches. Appellant recorded in the official log book that the drafts, forward and aft, were thirty-three feet, three inches, and thirty-six feet (mean draft thirty-four feet, seven and a half inches) and freeboard of thirteen feet, ten and half inches.

The entries in the log book were false.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. The sole ground for appeal is that the evidence does not support the Examiner's findings.

APPEARANCE: Phipps, Smith, Alexander and Herz, Houston, Texas, by Irwin M. Herz, Jr., Esq.

OPINION

The evidence supporting the Examiner's findings as to the draft and freeboard of TAMARA GILDEN included:

- 1) The drafts and freeboard on departure from the vessel's last port before arrival at Freeport;
- 2) The expenditure of fuel and water expended en route to and at Freeport;
- 3) The tonnage of liquid taken aboard at Freeport; and
- 4) Data as to tons per inch immersion.

In the absence of any evidence (much less compelling evidence) to the contrary, this information is sufficient to establish what the mean draft and freeboard of the vessel were on departure from Freeport.

Since the Examiner made supportable findings as to the draft and freeboard, the conclusion that the log entries, which differ from the findings, were false is also supportable.

ORDER

The order of the Examiner dated at Houston, Texas, on 27 January 1969, is AFFIRMED.

T. R. SARGENT
Vice Admiral, U. S. Coast Guard
Acting Commandant

Signed at Washington, D.C., this 2nd day of July 1970.

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