

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-1277510-D1
AND OTHER SEAMAN'S DOCUMENTS
Issued to: Louis R. GIBSON

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1821

Louis R. GIBSON

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 5 November 1969, an Examiner of the United States Coast Guard at New Orleans, La., suspended Appellant's seaman's documents for three months plus three months on twelve months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as an AB seaman on board SS STEEL KING under authority of the document above captioned, on or about 29 July 1968, Appellant deserted the vessel at Manila, R.P.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence voyage records of STEEL KING.

In defense, Appellant testified in his own behalf.

At the end of the hearing, the Examiner rendered a 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 plus three months on twelve months' probation.

The entire decision was served on 5 November 1969. Appeal was timely filed on 12 November 1969. Although Appellant had until 30 March 1970 to add to his original statement of grounds for appeal he has not done so.

FINDINGS OF FACT

On 29 July 1968, Appellant was serving as an AB seaman on board SS STEEL KING and under authority of his document while the ship was in the port of Manila, R.P.

At 0945 on that date Appellant left the vessel in a launch, contrary to the orders of the chief mate and the advice of the union delegate. Appellant had no intention of returning to the ship. The vessel sailed as scheduled at 1000. Appellant was arrested on the launch and taken to jail. The ship's agent got him out of jail and sent him to a doctor. Appellant was later signed aboard another vessel.

Appellant deserted STEEL KING on that occasion.

Although Appellant had earlier spent three and a half years in the U.S. Navy, the voyage in question was his first aboard a merchant vessel.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that although Appellant "had his rights explained to him, he did not fully understand the consequences that could follow, and the necessity of having legal representation."

APPEARANCE: Bossetta & Hand , New Orleans, La., by Lawrence J. Hand, Esq.

OPINION

Appellants's notice of appeal states only that he did not understand his rights even though he had been informed of them and that he did not recognize the "necessity of having legal representation." The notice speaks of certain actions desired "until the appeal has been finalized," indicating an intention to file further grounds for appeal, which, as I have already noted, were never presented.

I am far from persuaded that this notice constitutes a valid appeal.

Despite the naked allegation that Appellant did not understand his rights the record is clear and convincing that he was twice advised of his rights and that he acknowledged this. Absent some showing that Appellant was mentally defective, it can only be said that his election to proceed without counsel was conscious and informed. Secondly, there is no "necessity for legal representation" in these proceedings.

No specific error is alleged and no error is found in this case.

ORDER

The order of the Examiner dated at New Orleans, La. on 5 November 1969, is AFFIRMED.

C.R. BENDER
Admiral, U.S. Coast Guard
Commandant

Signed at Washington, D.C., this 16th day of September 1970.

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