

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-141655-D1 AND  
ALL OTHER SEAMAN'S DOCUMENTS  
Issued to: Thomas M. MURRAY

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1835

Thomas M. MURRAY

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 139.30-1.

By order dated 17 October 1968, an Examiner of the United States Coast Guard at Baltimore, Md., revoked Appellant's seaman's documents upon finding him guilty of misconduct. The specifications found proved, some thirty in number, need not be set forth here in view of the action to be taken in this case.

At the hearing, Appellant elected to act as his own counsel. The pleas and the evidence need not be discussed.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specifications had been proved. The Examiner then entered an order revoking all documents issued to Appellant.

The entire decision was served on 18 October 1968. Appeal was timely filed on 15 November 1968.

*FINDINGS OF FACT*

Except to assert that there was jurisdiction in this case, no findings of fact are necessary.

*BASES OF APPEAL*

This appeal has been taken from the order imposed by the Examiner. The bases of appeal need not be considered.

APPEARANCE:                   Appellant, *pro se*.

*OPINION*

I

This hearing was held during the period 30 July 1968-6 August 1968. The Examiner's decision was entered on 18 October 1968. Appellant filed his appeal on 15 November 1968. He requested a transcript of proceedings at that time.

The transcript was not delivered to him until 5 June 1970.

In the record presented to me on this appeal there is no effort made to explain this delay.

The failure to provide Appellant with his requested transcript in a reasonable time requires me to nullify the proceedings in this case, whatever the merits of the matter may be.

II

The Examiner in this case opened an extraordinary proceeding on 28 January 1970. The purpose was to determine whether a temporary document should be issued to Appellant pending a decision on his appeal from the Examiner's order. The record of this proceeding ends at 1050 on 30 January 1970, with the Examiner stating to Appellant, "We stand adjourned until we hear from you on Tuesday." Whatever happened on Tuesday, or any other day, a

temporary document was issued to Appellant on 24 February 1970.

Apart from the fact that the proceeding, conducted by the Examiner as a "hearing," to determine whether a temporary document should be issued to Appellant is unusual and finds no authorization under 46 CFR 137, it is unusual for an examiner to issue a temporary document after an order of revocation. It is even more unusual that the temporary document be authorized for the first time sixteen months after the order of revocation was entered.

The action here, even if unauthorized, impugns the validity and propriety of the Examiner's original order.

### CONCLUSION

The unexplained delay of over a year and a half from Appellant's request in delivering a transcript to Appellant and the Examiner's action in deciding in February 1970 that Appellant could be issued a temporary document lead me to a belief that no useful purpose can be served by looking into the merits of this case.

### ORDER

The order of the Examiner dated at Baltimore, Md., on 17 October 1968, is VACATED. The charges are DISMISSED.

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

Signed at Washington, D. C., this 26th day of March 1971.

### INDEX

Transcript of hearing  
Delay in receiving

Revocation or suspension  
Issuance of temporary document after revocation, effect of

\*\*\*\*\* END OF DECISION NO. 1835 \*\*\*\*\*

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[Top](#)