

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-996702-D2 AND
ALL OTHER SEAMAN'S DOCUMENTS
Issued to: BENNIE D. SMITH

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1692

BENNIE D. SMITH

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 8 June 1967, an Examiner of the United States Coast Guard at Houston, Texas, suspended Appellant's seaman documents for one month outright plus two months on twelve months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as a deck utility on board the United States SS CHARLES LYKES under authority of the document above described, on or about 23 May 1967, Appellant pilfered ship's cargo (two cases of beer), at San Juan Puerto Rico.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and specification.

In defense, Appellant offered evidence in mitigation.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved by plea. The Examiner then served a written order

on Appellant suspending all documents issued to him for a period of one month outright plus two months on twelve months' probation.

The entire decision was served on 8 June 1967. Appeal was timely filed on the same day.

FINDINGS OF FACT

On 23 May 1967, Appellant was serving as a deck utility on board the United States SS CHARLES LYKES and acting under authority of his document while the ship was in the port of San Juan, Puerto Rico. He and another seaman had been drinking beer together ashore.

When they returned to the ship, still being hot and thirsty, they made a deal with some stevedores, exchanging cigarettes for connivance at their going into a hold and taking out two cases of beer.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged only that the order is excessive.

APPEARANCE: Appellant *pro se*

OPINION

In the "Table of Average Orders" (46 CFR 137.20-16), three months' outright suspension is listed for a first offense of pilferage from cargo. If the Examiner, in judging this individual case on its facts and merits, elected to exercise leniency and place part of the term of probation, it cannot be said that the order is excessive.

ORDER

The order of the Examiner dated at Houston, Texas, on 8 June 1967, is AFFIRMED.

W.J. SMITH

Admiral, U.S. Coast Guard
Commandant

Signed at Washington, D.C., this 27th day of March 1968.

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