

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-845854
AND ALL OTHER SEAMAN'S DOCUMENT
Issued to: Charles R. HUMMEL

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1737

Charles R. HUMMEL

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 January 1968, and Examiner of the United States Coast Guard at San Francisco, California, suspended Appellant's seaman's documents for four months upon finding him guilty of misconduct. The specifications found proved allege that while serving as able bodied seaman on board SS EAGLE VOYAGER under authority of the document above described, on or about 16 December 1967, Appellant:

- (1) at Guayanilla, Puerto Rico, wrongfully failed to perform his duties by reason of intoxication, and
- (2) at the same time and place, wrongfully had in his possession aboard the vessel intoxicating liquor.

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

Despite the plea of "guilty," the Investigating Officer introduced in evidence voyage records of EAGLE VOYAGER.

In defense, Appellant offered in evidence matters in extenuation and mitigation, while persisting in his plea of "guilty."

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

The entire decision was served on 12 March 1968. Appeal was timely filed on 27 March 1968. By 6 June 1968, Appellant had filed no further matters in prosecution of his appeal.

FINDINGS OF FACT

On 16 December 1967, Appellant was serving as able bodied seaman on board SS EAGLE VOYAGER and acting under authority of his document. On that date Appellant wrongfully failed to perform duties aboard the vessel and wrongfully had intoxicating liquor in his possession aboard the vessel at Guayanilla, Puerto Rico.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged in Appellant's argument that he had arranged for another man to perform his duties on the date in question "in case I came back late or was not capable of standing my watch." It is said also that Appellant did not know his "legal rights" and thus should not have pleaded guilty.

APPEARANCE: Appellant, *pro se*.

OPINION

I

The grounds for appeal asserted here are no more than the grounds laid before the Examiner, after a plea of "guilty," for extenuation and mitigation. They do not attack the findings of fact made by the Examiner. No reason is urged why the findings should be disturbed.

Appellant told the Examiner on the record, "I had someone else standing by for me. I did. He didn't actually stand by for me, I said, 'If I don't make it back,' I says, 'Boy, cover me.'" R-11. However, Appellant immediately admitted that this unnamed "stand by" did not perform when Appellant was intoxicated. In addition, when Appellant was apprized of his "logging" by the master, he agreed that the master was correct, and he repeated this belief before the Examiner. R-8.

The record also shows that Appellant was twice advised of his "legal rights." But further, even if the plea to the specification alleging failure to perform duties had been "not guilty," the evidence, and Appellant's own statements support a finding of "proved."

CONCLUSION

It is concluded that the findings of the Examiner are fully supported by the pleas of guilty, by Appellant's statements on the record, and by the voyage records.

ORDER

The order of the Examiner dated at San Francisco, Cal., on 8 January 1968, is AFFIRMED

P. E. TRIMBLE
Vice Admiral, U. S. Coast Guard
Acting Commandant

Signed at Washington, D. C., this 15th day of November 1968.

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