

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-959075-D3 AND
ALL OTHER SEAMAN'S DOCUMENTS
Issued to: WALTER E. GRACE

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1648

WALTER E. GRACE

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 28 April 1966, an Examiner of the United States Coast Guard at New York suspended Appellant's seaman's documents for 2 months outright plus 4 months on 8 months' probation upon finding him guilty of misconduct. The specifications found proved allege that while serving as a second electrician on board the United States SS SANTA MARIANA under authority of the document above described, on or about 29 January 1966, Appellant wrongfully destroyed a dinner plate; used foul language to two stewards; and created a disturbance in the messroom.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the specification alleging use of foul and abusive language, and not guilty to the remaining two charges. The Examiner later changed Appellant's plea of guilty to not guilty.

The Investigating Officer introduced in evidence entries from

the shipping articles and official logbook of the vessel, and testimony of the two stewards involved.

Appellant offered no evidence on his behalf.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and all specifications had been proved. The Examiner then served a written order on Appellant suspending all documents issued to him for a period of 2 months outright plus 4 months on 8 months' probation.

The entire decision was served on 28 April 1966. Appeal was timely filed on 28 April 1966.

FINDINGS OF FACT

On 29 January 1966, Appellant was serving as a Second Electrician on board the United States SS SANTA MARIANA and acting under authority of his document while the ship was at sea.

At about 1800 on this date, in the messroom, Appellant started complaining to two stewards present that the service he was getting was not satisfactory. His complaint soon degenerated into a spate of foul language towards the two stewards. During the course of his vilification of these fellow crewmen Appellant picked up a dinner plate and smashed it on the table, breaking it and splattering butter about. Both witnesses stated their opinion that Appellant acted like he had been drinking, one witness relating that he smelled liquor on Appellant's breath.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the order is too severe.

OPINION

The logbook entries and unrebutted testimony of the two stewards constituted substantial evidence proving the misconduct

alleged. Appellant has been going to sea for a number of years and has a prior unblemished record. Also, the disturbance he created, although it is not to be condoned, appears to have been rather minor. For these reasons, it is considered that a probationary sentence alone is appropriate in this case.

ORDER

Only so much of the order of the Examiner dated at New York, New York, on 28 April 1966, as provides for 4 months suspension on 6 months' probation if AFFIRMED.

W. J. Smith
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 27th day of July 1967.

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