IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-506226-D1 AND ALL OTHER SEAMAN DOCUMENTS
Issued to: STEVE POULOS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1658

STEVE POULOS

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 25 August 1966, an Examiner of the United States Coast Guard at San Francisco, California, revoked Appellant's seaman documents upon finding him guilty of misconduct. The specifications found proved allege that while serving as an ordinary seamen on board the United States SS LOYOLA VICTORY under authority of the document above described, on or about 31 May 1966, and 1 and 2 June 1966, Appellant wrongfully failed to perform his regular assigned duties due, on 1 and 2 June 1966, to his having been in a state of intoxication.

Appellant failed to appear at the hearing after having been served with notice thereof and of the charge and specifications. It was, therefore, conducted in absentia and the Examiner entered a plea of not guilty in Appellant's behalf to the charge and each specification.

The Investigating Officer introduced in evidence entries from

the ship's Shipping Articles and Official Logbook.

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 order was served on 30 January 1967. Appellant was timely filed on 27 February 1967.

FINDINGS OF FACT

On 31 May and 1 and 2 June 1966, Appellant was serving as an ordinary seamen on board the United States SS LOYOLA VICTORY and acting under authority of his document while the ship was in the port of Manila, Republic of the Philippines. On each of these days, Appellant wrongfully failed to perform his regularly assigned duties.

Appellant's prior record consists of a three month suspension on twelve months probation in 1954 for a physical altercation with a fellow crewmember; admonishments in 1955 and 1957; a four month suspension on eighteen months probation in 1958 for failure to perform; an admonishment in 1960 for failure to perform; a two month outright suspension and plus two months on nine months probation in 1961 for absent without leave, failure to perform, and failure to join; a two month outright suspension plus three months on eighteen months probation in 1961 for absent without leave and failure to perform; a six month outright suspension plus six months on twelve months probation in 1962 for failure to perform; and a twelve month suspension in 1963 for failure to perform, failure to join, and absent without leave.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that Appellant's documents should not be revoked as this will result in the loss of certain union pension benefits. Inasmuch as Appellant's must serve on board ship a minimum number of days each year to maintain his pension credits, it is requested that the Examiner's order be modified so as to

provide merely for suspension of Appellant's documents for a period of less than nine months duration.

OPINION

The matters relied upon in support of the requested modification of the Examiner's order are not part of the record in this proceeding. They may not, therefore, serve as the basis for a grant of such relief. Nevertheless, there is another matter of concern here which, in my opinion, does warrant some modification of the Examiner's order. While his order is base primarily on Appellant's rather extensive prior disciplinary record, his decision indicates that he also took into consideration a statement of record by the Investigating Officer that he had been the object of an attempted bribe by Appellant. There is no indication that the Investigating Officer was testifying under oath when making this statement and consideration of the statement was, therefore, not proper. Inasmuch as the statement was considered by the Examiner in determining the severity of the order entered by him, such order will be modified so as to provide for the suspension of Appellant's documents for six months outright plus six months on twelve months probation.

ORDER

The order of the Examiner dated at San Fransciso, California on 25 August 1966, is modified to provide for six months outright suspension plus six months suspension on twelve months probation.

As so MODIFIED, the order is AFFIRMED.

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

Signed at Washington, D. C., this 20th day of September 1967.

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MODIFICATION OF EXAMINER'S ORDER
due to consideration of improper matters.
***** END OF DECISION NO. 1658 *****

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