

IN THE MATTER OF LICENSE NO. R-12990 MERCHANT MARINER'S DOCUMENT  
BK-84621 D1 AND ALL OTHER SEAMAN'S DOCUMENTS  
Issued to: Joseph Peter DOCKENDORF

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1674

Joseph Peter DOCKENDORF BK-84621777 D1

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 February 1967, an Examiner of the United States Coast Guard at San Francisco, California, suspended Appellant's seaman's documents for six months on twelve months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as radio officer on board the United States SS SANTA INES under authority of the document and license above described, on or about 11 January 1967, Appellant deserted the vessel at Honolulu, Hawaii.

Appellant failed to appear for hearing.

The Examiner entered a plea of not guilty to the charge and specification. The Investigating Officer introduced in evidence voyage records of SANTA INES.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved. The Examiner then entered an order suspendign all documents issued to Appellant for a period of six months on twelve months' probation.

The entire decision was served on 16 February 1967. Appeal was timely filed on 3 March 1967.

#### *FINDINGS OF FACT*

On 11 January 1967, Appellant was serving as radio officer on board the United States SS SANTA INES and acting under authority of his license and document while the ship was in the port of Honolulu, Hawaii, Appellant deserted from the vessel on that day.

#### *BASES OF APPEAL*

This appeal has been taken from the order imposed by the Examiner. It is urged that Appellant could not attend the hearing, and that his union's agreement supersedes the articles of agreement in determining his obligation to the vessel.

APPEARANCE: Appellant, *pro se*.

#### *OPINION*

##### I

Appellant was served with charges on 1 February 1967 for a hearing scheduled for 10:00 A.M. on 7 February 1967 at San Francisco, California. At his request he was given a subpoena was not served. At any rate, the master did not appear at the time and place specified. Neither did Appellant.

Appellant's brief states, without supporting material, that on 11 January 1967 he had a reservation on a Pacific southwest Airlines flight for San Francisco scheduled for 7:50 A.M., but there was no aircraft available. For some reason (weather is not mentioned) flights at 8:30 and 9:14 A.M. were cancelled. When he realized that he could not reach San Francisco by ten, Appellant says, he sent a telegram to the Investigating Officer requesting a

continuance. Thee record does not reflect the existence of any such telegram, nor is any proof offered that one was sent.

This is insufficient to persuade me that Appellant did not have adequate notice of hearing or that failure to appear was not through hos own fault.

## II

Further, there is no indication that had Appellant appeared he would have offered any relevant evidence. In the appeal he admits that he took all his clothing and his license off the ship on 11 January 1967, went to the airport, and took a flight to California. This spells out desertion, since the articles of agreement called for service aboard the vessel until return to a port in the continental United States exclusive of Alaska.

No union agreement, a coantract between the union as a body and the owner of the vessel, can supersede the terms of the shipping agreement made between the master and the seaman. Appellant bound himself by articles required to be signed under R.S. 45-1 (46 U.S.C. 564) and he did not comply with them.

## ORDER

The order of the Examiner dated at San Francisco, California, on 8 February 1967, is AFFIRMED.

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

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

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