

In the Matter of Merchant Mariner's Document No. Z-766443
Issued to: FRANK X. McLAUGHLIN

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

309

FRANK X. McLAUGHLIN

This appeal comes before me by virtue of 46 United States Code 239(g) and 46 Code of Federal Regulations 137.11-1.

On 17 December, 1948, an Examiner of the United States Coast Guard at Long Beach, California, entered an order revoking Appellant's Merchant Mariner's Document No. Z-766443 upon finding him guilty of misconduct based upon a specification reciting that Appellant did on or about 23 April, 1948, alter a Seaman's Certificate Application for upgrading by erasing the encircled word "incompetent" and circling the word "competent".

At the hearing, Appellant had elected to represent himself without other assistance, and voluntarily entered a plea of guilty to the charge and specification. There upon, the above-mentioned order was entered. This appeal followed, and it is urged:

- (a) Appellant had satisfactorily passed the written examination for the raise in grade; and
- (b) The penalty is too severe for the act committed because the incapacity found by the medical examiner was the result of service with the United States Army during

World War II.

FINDINGS OF FACT

Appellant is an American merchant seaman holding Merchant Mariner's Document No. Z-766443 issued by the United States Coast Guard at New York on 12 June, 1946, which permits him to sail in the capacity of wiper on merchant vessels of the United States.

On 23 April, 1948, Appellant applied to the Coast Guard at New Orleans, Louisiana, for a document which would have permitted him to sail as a merchant seaman in the rating of deck engineer, fireman, oiler, watertender or electrician, and he successfully passed the written examination for such raise in grade. He did not, however, pass the physical examination because of deficient eyesight, and his application was returned to the Coast Guard by the surgeon, United States Public Health Service at New Orleans, with the word "incompetent" encircled. Appellant erased that marking, and encircled the word "competent". The alteration of the document was timely discovered, and Appellant derived no benefit from his act.

Explanation is given that Appellant was discouraged because he had been constantly sailing with the rating of wiper, and he sought to improve his position. It is also urged that his poor vision is the result of service in the United States Army during World War II.

OPINION

I can understand and sympathize with, but not condone Appellant's action in this instance. But the alteration of documents which are issued to evidence the qualifications of merchant seamen (and to that extent indicate their right to employment in higher ratings) exposes not only the person who alters the documents but his shipmates to extraordinary risks should a crisis arise.

CONCLUSION

The order of revocation appears too severe punishment in this

particular case - although under other circumstances the order should not be disturbed.

ORDER

The order of the United States Coast Guard Examiner dated 17 December, 1948, should be, and it is, modified to provide for suspension of Appellant's Merchant Mariner's Document No. 766443 for a period of six (6) months from the date he surrenders the temporary permit now in his possession. As so modified, said order is AFFIRMED.

J. F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C., this 24th day of February, 1949.

***** END OF DECISION NO. 309 *****

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