

In the Matter of Merchant Mariner's Document No. Z-761337 and all
other Seaman Documents
Issued to: LUIS A. MEDINA

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1407

LUIS A. MEDINA

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 22 March 1953, an Examiner of the United States Coast Guard at New York, New York, revoked Appellant's seaman documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as engine yeoman on board the United States SS BRASIL under authority of the above described, on 11 September 1962, Appellant wrongfully cut a fellow crew member, Francisco J. Pereira, with a knife.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and specification.

A prima facie case was established by the testimony of Pereira that, after he had pushed or slapped Appellant fifteen minutes earlier, Appellant stabbed Pereira when they met in a passageway. The Examiner accepted this version and rejected Appellant's denial that he had any knowledge concerning the

stabbing. No other witnesses testified who were alleged to be in the proximity at the time of the incident but Pereira testified that a crew member named Day was with Appellant and that a seaman named Davila saw Pereira with Appellant and Day soon after the stabbing and took Pereira to the ship's hospital.

On appeal, counsel vigorously contends that it was error for the Examiner to fail to call witnesses who were "vital to the defense." Since Appellant was without counsel at the hearing and apparently failed to recognize the possibility that the other two crew members, referred to in Pereira's testimony, might have testified in Appellant's favor, the finding that the alleged offense was proved is set aside and this case will be remanded in order to give Appellant a reasonable opportunity to introduce additional evidence. If this is done, the Government may submit evidence in rebuttal. The Examiner shall reinstate his prior decision, without modification, if further evidence is not presented within a reasonable time giving due regard to the availability of defense witnesses.

ORDER

The order of the Examiner dated at New York, New York, on 22 March 1963, is VACATED. The record is REMANDED for further proceedings not inconsistent with this decision.

E. J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 30th day of July 1963.

***** END OF DECISION NO. 1407 *****

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