

In the Matter of Merchant Mariner's Document No. Z-573479  
Issued to: WALTER H. SIBLEY

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

721

WALTER H. SIBLEY

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 12 May, 1953, an Examiner of the United States Coast Guard at Seattle, Washington, suspended Merchant Mariner's Document No. Z-573479 issued to Walter H. Sibley upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as Boatswain on board the American SS JOHN B. WATERMAN under authority of the document above described, on or about 12 May, 1953, he wrongfully assaulted and battered a ship's officer of said vessel; to wit, Chief Engineer Perry Dansby.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by counsel of his own selection, Jeff Morrison, a union business agent. Appellant entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of the Chief

Engineer, the Master and the First Assistant Engineer of the JOHN B. WATERMAN. The Master had been the Chief Mate prior to 12 May, 1953.

In defense, Appellant offered in evidence his own sworn testimony. Appellant stated that he saw the Chief Engineer when he was going into his quarters at about 0830 on 12 May, 1953, and talked with him about setting a time to blow tubes; but Appellant denied that he had hit the Chief Engineer and that he had run down the passageway after leaving the Chief Engineer.

It was stipulated that the tubes were blown at about 1525 on 11 May, 1953, and a seaman who was aloft had to call for help and be taken below as a result of the blowing of the tubes at this time.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-573479, and all other licenses and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of four months on ten months probation.

From that order, this appeal has been taken, and it is urged that Appellant did not strike the Chief Engineer but the latter became violently angry after he had been approached by Appellant who was courteous, respectful and sincere at the time; the Chief Engineer made several attempts to discredit Appellant and to have him dismissed from the ship as a result of the friction between the Engine and Deck Departments; the First Assistant Engineer knew Appellant well enough to recognize him and the structure of the ship made it impossible for the First Assistant to have reached the Chief Engineer's room so quickly after the alleged incident without the First Assistant having seen, and having been seen by, Appellant; the Abrasion on the inner side of the Chief Engineer's lip, which he showed to the Examiner, would have caused some outer swelling but the chief Engineer's face was not swollen at the time of the hearing which was five hours after the alleged assault; there would have been some outward evidence of a blow struck in

anger by Appellant since he is a much larger man than the Chief Engineer; the testimony of the Master shows that Appellant is not a man of violence and that he had conducted himself with propriety on this ship; the issue is one of the Chief Engineer's word against Appellant's word since no one except the former claims to have seen a blow struck. Therefore, Appellant prays that the decision be reversed so as to remove this error from his record.

Based upon my examination of the record submitted, I hereby make the following

#### *FINDINGS OF FACT*

On 12 May, 1953, Appellant was serving as Boatswain on board the American SS JOHN B WATERMAN and acting under authority of his Merchant Mariner's Document No. Z-573479 while the ship was in the port of Seattle, Washington.

At about 0830 on this date, the chief Engineer of the ship started to open the door to enter his quarters when Appellant approached the Chief Engineer and asked him to let Appellant know when the engineers were going to blow tubes. There was considerable friction between the Deck and Engine Departments because of this and other issues. The Chief Engineer told Appellant to take the matter up through the Chief Mate. Both men became angry and there was an exchange of vulgar language between them. The Appellant then used his fist to strike the Chief Engineer in the mouth just before he slammed the door to his quarters. The injury to the Chief Engineer consisted of an abrasion on the inside of his upper lip. Appellant went away from the Chief Engineer's quarters and the latter remained in his quarters for a short period of time before he reported the incident to the Master at about 0845.

Appellant has been going to sea on American Merchant Marine vessels since 1945. His prior disciplinary record consists of a six months suspension in 1947 for assault, failure to join and failure to turn to. Appellant was admonished at Baltimore, Maryland, in 1950 by an Investigating Officer.

#### *OPINION*

The Examiner heard the conflicting testimony of the Chief Engineer and the Appellant. The testimony by the former that he was struck by Appellant's first was accepted by the Examiner despite the testimony of the Master that Appellant is a very efficient worker and is not a fighting man. The testimony of the Chief Engineer is corroborated by that of the First Assistant Engineer who stated that the Chief Engineer was "bleeding from the mouth" (R. 17) a few seconds after the Chief Engineer slammed the door to his quarters. The fact that Appellant was in the vicinity of the Chief Engineer's quarters at that time is established by his own testimony as well as that of the Chief Engineer. The failure of the First Assistant Engineer to recognize Appellant when he was leaving the scene, and the extent of the injury, are not material to the proof of the specification and the charge. But the absence of any serious physical injury was probably influential insofar as the imposition of an entirely probationary order. Any failure on the part of the Chief Engineer to observe a set time for blowing tubes did not justify an assault and battery upon the Chief Engineer by the Appellant.

*ORDER*

The order of the Examiner dated at Seattle, Washington, on 12 May, 1953, is AFFIRMED.

Merlin O'Neill  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 31st day of December, 1953.

\*\*\*\*\* END OF DECISION NO. 721 \*\*\*\*\*

[Top](#)

---