

In the Matter of Merchant Mariner's Document No. Z-627986-D1
Issued to: CHARLES F. JAMES

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

768

CHARLES F. JAMES

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-19

On 6 January, 1954, an Examiner of the United States Coast Guard at Galveston, Texas, suspended Merchant Mariner's Document No. Z-627986-D1 issued to Charles F. James upon finding him guilty of misconduct based upon three specifications alleging in substance that while serving as Boatswain on board the American SS HELEN LYKES under authority of the document above described, on or about 31 December, 1953, he wrongfully failed to perform his duties by reason of intoxication; he disobeyed a lawful command of the Master when he ordered Appellant to go to his room; and he assaulted and battered Claudius Fulcher, a member of the crew.

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. Although advised of his right to be represented by counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the first two of the above three specifications and "not guilty" to the third specification.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of the Master and three members of the crew including Fulcher, the seaman allegedly assaulted and battered by Appellant. The Investigating Officer also placed in evidence certified copies of two log entries pertaining to the first two specifications.

Appellant submitted no evidence in his defense. He simply stated that he did not remember anything that happened after he had been drinking rum while ashore.

At the conclusion of the hearing, having heard the argument of the Investigating Officer 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 plea to the first two specifications and by proof of the third specification as set forth above. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-627986-D1, and all other license, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of 18 months - 12 months outright and 6 months on 12 months probation from the termination of the outright suspension. This order included a 6 months suspension on 18 months probation which was imposed on 6 March, 1953, for assault and battery upon a crew member.

From that order, this appeal has been taken, and it is urged that Appellant had been drinking to excess due to family trouble which has now improved to such extent that Appellant has stopped drinking completely. It is requested that Appellant be permitted to earn his livelihood at sea by remitting the outright suspension to 3 or 4 years probation.

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

FINDINGS OF FACT

On 31 December, 1953, Appellant was serving as Boatswain on board the American SS HELEN LYKES and acting under authority of his Merchant Mariner's Document No. Z-627986-D1 while the ship was

preparing to get underway from Havana, Cuba.

Appellant reported on board in an intoxicated condition and was unable to perform his duties in connection with securing the vessel for sea.

After the ship was underway on the afternoon of this date, Appellant and Fulcher, a deck maintenance man, had an argument while discussing a football game. Appellant struck Fulcher in the face before other members of the crew restrained Appellant who then went to his room and got a knife. This was reported to the Master who immediately went below and ordered Appellant to his room. Appellant emphatically refused to obey. He acted in a violent manner and resisted forcefully all peaceful efforts to control him. Appellant was then placed in irons until he quieted down some twelve hours later.

Appellant's prior record during 10 years at sea consisted of a 6 months suspension on 18 months probation imposed by an Examiner at Galveston, Texas, on 6 March, 1953, for assaulting by striking a fellow crew member.

OPINION

The offenses involved were of a serious nature and aggravated by the fact the Boatswain on a ship is in a position of responsibility which requires him to set a good example for the other unlicensed members of the crew to follow in maintaining the routine and discipline on board ship.

Appellant's request that he be placed on 3 or 4 years probation will not be granted. In such a status, his future behavior at sea would not be assured since, apparently, the prior probationary suspension of 6 March, 1953, did not affect his conduct.

For these reasons, the order of the Examiner will be sustained.

ORDER

The Order of the Examiner dated at Galveston, Texas, on 6
January, 1954 is AFFIRMED.

J. A. Hirshfreed
Rear Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C., this 23rd day of September, 1954.

***** END OF DECISION NO. 768 *****

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