

In the Matter of Merchant Mariner's Document No.: Z-802881
Issued to: NOLAN LYNN FLOWERS

DECISION AND FINAL ORDER OF THE COMMANDANT

UNITED STATES COAST GUARD

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NOLAN LYNN FLOWERS

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

On 5 April, 1950 an examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. 802881 and all other licenses or certificates of service issued to Nolan L Flowers upon finding him guilty of "misconduct" based upon two specifications alleging in substance, that while serving as Second Electrician on the S. S. STEEL VOYAGER, under authority of the document above described, on or about 1 August 1949, he assaulted with a deadly weapon, two civilian workmen inflicting serious wounds upon the persons attacked; and attempted to assault another civilian with a deadly weapon.

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. Although advised of his right to be represented by counsel of his own selection, he voluntarily elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and each specification suggesting that extenuating circumstances were present.

Thereupon, the Investigating Officer introduced without objection two certified copies of State Department Documents No. 5755 and 6452 relating to the subject.

In defense, Appellant offered his own testimony to explain the circumstances in mitigation of his alleged offenses.

At the conclusion of the hearing, having heard the statements of the Investigating Officer and Appellant, the Examiner found the charge "proved" by proof of each specification and entered an order revoking Appellant's documents as a merchant mariner.

From that order, this appeal has been taken, and it is urged:

- "1. That I served three (3) months, ten (10) days' sentence and two (2) and one-half months under trial, making a total of five (5) months, twenty-four (24) days, confinement (at rigorous confinement) in Madras India penitentiary and paid the penalty of the laws of India with regard to the

criminal aspect of for my offenses. In addition, I paid the hospital and loss of wages incurred by the two injured civilians.

- "2. That, this is my first offense of any nature committed by me either under the criminal or civil laws of the United States or any other country, or while holding my document.
- "3. That, I am not a habitual user of intoxicating beverages and can truthfully assign as my only reason for committing such offense that my mind was temporarily dethroned by the beating administered to me by natives ashore (before this incident aboard ship occurred). I was at no time intoxicated to such a degree that it in itself led to this offense and it must have been the beating I received which caused me to do these acts.
- "4. I plead for leniency based upon the above and respectfully urge that I be placed on probation from the above order."

Based upon my examination of the Record submitted, I am satisfied that the Examiner has analyzed this case with meticulous care, and I adopt as my own the followings:

FINDINGS OF FACT

- "1. That Nolan L. Flowers, while serving as 2nd Electrician on board a merchant vessel of the United States, the SS STEEL VOYAGER under authority of his duly issued MMD did, on or about 1 August 1949, while his vessel was in the port of Vizagapatam, assault with a deadly weapon, to wit, a large knife, K. Pothirajo and S. Nookaraju, 2 civilian workmen aboard the vessel, inflicting serious wounds.
- "2. That Nolan Flowers, while serving as above, did, on or about 1 August, 1949 while his vessel was in the port of Vizagapatam, India, attempt to assault C.J.Borthwick, a civilian with a deadly weapon, to wit: a large knife while aboard his vessel."

OPINION

My study of the Record, and serious consideration of the points presented by this appeal, do not justify any interference with the Examiner's Order.

ORDER

The Order dated at New Orleans, Louisiana, on 5 April, 1950, is AFFIRMED.

A. C. RICHMOND
Rear Admiral, United States Coast Guard

Acting Commandant

Dated at Washington, D. C., this 26th day of June, 1950.