

In the Matter of Merchant Mariner's Document No. Z-154695-D1
Issued to: WILLIAM HANLON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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WILLIAM HANLON

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 28 November, 1952, an Examiner of the United States Coast Guard at Galveston, Texas, suspended Merchant Mariner's Document No. Z-154695-D1 issued to William Hanlon upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as able seaman on board the American SS JULES FRIBOURG under authority of the document above described, on or about 25 November, 1952, while said vessel was in a domestic port, he assaulted and battered, by striking with his fists, a crew member, Christopher A. Lake.

Appellant was served with a copy of the charge and specification on 26 November, 1952, at Galveston, Texas, and directed to be present for a hearing at 1000 on 28 November, 1952. When Appellant failed to put in an appearance by 1100 on the latter date, the Examiner entered a plea of "not guilty" on behalf of Appellant and the hearing was conducted in absentia.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence certified copies of extracts from the Official Log Book and Shipping Articles of the JULES FRIBOURG. The Investigating Officer then rested his case. Since the ship had sailed, there were no witnesses at the hearing.

At the conclusion of the hearing, 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-154695-D1, and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of six months from the time when Appellant's document shall have been surrendered to the Coast Guard.

From that order, this appeal has been taken, and it is urged that clemency be granted in the form of a probationary order. Appellant states that the battery occurred while he was under severe provocation, he has no prior record with the Coast Guard, and his only livelihood is working as a seaman.

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

FINDINGS OF FACT

On 25 November, 1952, Appellant was serving as able seaman on board the American SS JULES FRIBOURG and acting under authority of his Merchant Mariner's Document No. Z-154695-D1 while the ship was anchored at Galveston, Texas.

On this date, Appellant struck the Boatswain, Christopher Lake, with his fists causing profuse bleeding from the Boatswain's head and chest. Appellant was signed off the Shipping Articles by mutual consent on 26 November, 1952, at Galveston, Texas.

OPINION

It is considered that the order entered by the Examiner was appropriate for the type of offense disclosed by the record. The evidence does not indicate that the attack resulted from any provocation. Appellant was afforded an opportunity to appear at the hearing and submit evidence to the contrary. He was served with notice of the hearing and signed off the ship's articles two days prior to the date of the hearing. Nevertheless, he did not put in an appearance at the hearing and a prima facie case was established by the log entries since they complied in every respect with the statutory requirements of 46 U.S.C. 702.

Under these circumstances, I am compelled to accept the facts as set forth by the record. Therefore, the order of suspension imposed by the Examiner will be upheld despite Appellant's prior clear record.

ORDER

The Order of the Examiner dated at Galveston, Texas, on 28 November, 1952, is ~~REVERSED~~ **AFFIRMED**.

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

Dated at Washington, D. C., this 20th day of March, 1953.