

In the Matter of Merchant Mariner's Document No. Z-818758-D1 and
all other Licenses, Certificates and Documents
Issued to: ANGEL L. MALDONADO

DECISION AN FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

850

ANGEL L. MALDONADO

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.

By order dated 22 August 1955, an Examiner of the United States Coast Guard at New York, New York, suspended Merchant Mariner's Document No. Z-818758-D1 issued to Angel L. Maldonado upon finding him guilty of misconduct based upon three specifications alleging in substance that while serving as a wiper on board the American SS STEEL VENDOR under authority of the document above described, on or about 17 June 1955, while said vessel was in the port of Singapore, Malaya, he wrongfully failed to perform his duties; on or about 3 July 1955, while said vessel was in the port of Colombo, Ceylon, he wrongfully refused to obey a lawful command of the Second Mate; and on or about 11 July 1955, while said vessel was at sea, he assaulted the ship's Boatswain with a coffee cup.

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 choice, Appellant 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 proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of the Master, Third Mate and Boatswain of the ship. The Investigating Officer also introduced in evidence several certified copies of entries in the Official Logbook of the STEEL VENDOR.

In defense, Appellant offered in evidence his own testimony and that of two other members of the crew on the ship. Appellant admitted that he was late for work on 17 June 1955; that he refused to obey the Second Mate on 3 July 1955, because no one was working in the area which Appellant was ordered to leave; and that

Appellant hit the Boatswain with a coffee cup on 11 July 1955, due to the fact that Appellant thought he was going to be jumped on by the Boatswain and the ship's union delegate.

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 decision and concluded that the charge and three specifications had been proved. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-818758-D1, and all other licenses and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of twenty-four months - twelve months outright suspension and twelve months suspension on twelve months probation from the date of termination of the outright suspension.

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

FINDINGS OF FACT

On a foreign voyage including the dates of 17 June, 3 July and 11 July 1955, Appellant was serving as a wiper on board the American SS STEEL VENDOR and acting under authority of his Merchant Mariner's Document No. Z-818758-D1.

While the ship was at Singapore, Malaya on 17 June 1955, Appellant was supposed to report for duty at 0800. Appellant did not report for duty until approximately 1000 when he returned on board the ship. Appellant did not have permission to be late for work.

While the ship was at Colombo, Ceylon, on 3 July 1955, the Second Mate was attempting to clear the deck near the No. 5 boom preparatory to rigging it in to shift berths. Appellant was standing in the vicinity of one of the No. 5 boom guys and he refused to move even after the Second Mate had ordered him three times to stand clear of this area. When Appellant was logged for this offense, he was defiant and belligerent towards the Master.

On 11 July 1955, while at sea, Appellant was stretched out on a bench which was intended for the crew's use on deck. The Boatswain asked Appellant to move over. When Appellant failed to comply, the Boatswain forced his way onto part of the bench. Appellant went into the messroom, got a cup of coffee and returned on deck with the coffee while the Boatswain was discussing with the ship's union delegate the fact that the bench was for the use of the entire crew. Appellant approached the other two seamen and swung the coffee cup at the Boatswain's head without warning. The

latter moved his head, took the blow on his collarbone and punched Appellant in the nose. The Boatswain received a cut on his collarbone.

There is no record of prior disciplinary action having been taken against Appellant since he became a merchant seaman in 1951.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant states that his sole means of livelihood is serving as a merchant seaman. Because of his prior clear record, Appellant requests that the outright suspension be modified to provide for an extended period of probation.

OPINION

The offense of 17 June 1955 was minor in nature compared to the other two offenses.

Appellant's flagrant refusal to obey the repeated order of a ship's officer, on 3 July 1955, was a grave infraction of discipline. This offense was aggravated by Appellant's attitude when he was questioned by the Master about the incident.

The completely unjustified attack upon the Boatswain, on 11 July 1955, was an extremely serious offense which might well have resulted in the revocation of Appellant's document if the Boatswain had not been alert enough to avoid a much more serious injury by moving his head when Appellant swung the coffee cup.

Since the combination of the latter two offenses is sufficient to justify the order imposed by the Examiner, it will be sustained despite the hardship to Appellant, and his otherwise clear record during his few years as a merchant seaman.

ORDER

The order of the Examiner dated at New York, New York, on 22 August 1955 is AFFIRMED.

J. A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 28th day of December, 1955.