

In the Matter Merchant Mariner's Document No. Z-74350-D1 and all other Licenses and Documents

Issued to: LOUIS E. WASILEWSKI

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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LOUIS E. WASILEWSKI

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 20 October 1955 at Boston, Massachusetts, an Examiner of the United States Coast Guard suspended Merchant Mariner's Document No. Z-74350-D1 issued to Louis E. Wasilewski upon finding him guilty of misconduct based upon three specifications alleging in substance that while serving as Third Mate on board the American SS SEATHRILL under authority of his duly issued license, on or about 2 November 1951, while said vessel was at sea, he wrongfully addressed threatening language to the Second Mate; wrongfully addressed obscene and abusive language to the Master; he wrongfully addressed threatening and abusive language to the Master while he was on the bridge.

The hearing was held at New York, New York. 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. The Investigating Officer introduced in evidence the testimony of the Second Mate of the SEATHRILL, a certified copy of an entry in the Official Logbook of the ship and a certified copy of extracts from the Shipping Articles for the voyage including the date of 2 November 1951.

In defense, Appellant offered in evidence his sworn testimony. Appellant testified that he objected to the mean remarks made to him by the Second Mate while he was drunk and Appellant asked the Second Mate to go outside in order to settle the matter. Appellant also stated that, on the same day, when he went to the bridge, he was told by the Master to go below and that he would stand Appellant's watch.

At the conclusion of the hearing, having heard the argument of

the Appellant 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-74350-D1, and all other licenses and documents issued to Appellant by the United States Coast Guard or its predecessor authority for a period of two years - one year outright suspension and one year suspension on probation until three years after the termination of the outright suspension.

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

FINDINGS OF FACT

On 2 November 1951, Appellant was serving as Third Mate on board the American SS SEATHRILL and acting under authority of his License No. 76949 while the ship was at sea. (This license was subsequently renewed and replaced by another license.)

At about 1140 on this date, Appellant and other officers were at dinner in the saloon. Appellant was in a belligerent mood and an intoxicated condition. He began shouting at the Second Mate. Appellant threatened to make the Second Mate's face bloody and to push blood down his throat if he would go out on deck with Appellant. The Master ordered Appellant to go to his room. Appellant directed obscene and abusive language towards the Master before leaving the saloon.

Appellant was still intoxicated at about 1740 on this date when he when to the bridge. Appellant commenced yelling at the Master and threatened to break every bone in his body. Appellant then went below when ordered to do so by the Master. The Second Mate and the Boatswain were in the wheelhouse when this incident occurred on the port wing of the bridge.

Appellant's prior record consists of a probationary suspension in 1944 for misconduct and an admonition in 1943 for misconduct.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that the log entries were made weeks after the alleged offenses; the Master and Second Mate disliked Appellant; the Master made untrue log entries about Appellant; the testimony of the Second Mate should be disregarded because it is contradictory and untrue; Appellant has never threatened anyone; and this order of suspension imposes an unjust hardship on Appellant.

OPINION

The testimony of the Second Mate and the log entry in evidence constitute substantial evidence in support of the three specifications. The Examiner specifically stated, after hearing and observing the witnesses testify, that he accepted the Second Mate's testimony and rejected so much of the testimony of the Appellant as was inconsistent with that of the Second Mate. No reason

appears in the record to disturb these findings by the Examiner as to the credibility of the witnesses.

The Second Mate's testimony is consistent as to the material facts rather than contradictory as Appellant urges on appeal. Similarly, there is no support, other than Appellant's testimony, for Appellant's contentions that the log entry was weeks later, that the log entry is untrue, and that the Second Mate's testimony is untrue.

In view of the seriousness of the offense when this type of language is used by a ship's officer against the Master of the ship and a superior officer, the order will be sustained, notwithstanding the personal hardship to Appellant.

ORDER

The order of the Examiner dated at Boston, Massachusetts on 20 October 1955 ~~IS~~ **AFFIRMED**.

A. C. Richmond
Vice Admiral, United State Coast Guard
Commandant

Dated at Washington, D. C., this 11th day of April, 1956.