

In the Matter of Merchant Mariner's Document No. Z-935873 and all  
other Licenses, Certificates and Documents  
Issued to: FRANCIS H. MURRAY

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

904

FRANCIS H. MURRAY

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 13 April 1956, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-935873 issued to Francis H. Murray upon finding him guilty of misconduct based upon four specifications alleging in substance that while serving as engine utilityman on board the American SS LAKE GEORGE under authority of the document above described, on or about 13 February 1956, while said vessel was in the port of Santos, Brazil, he assaulted the Master, the Chief Engineer, the First Assistant Engineer; and he created a disturbance in the officers' messroom while under the influence of intoxicants.

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 "guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant made a brief statement in mitigation. He indicated that he became angry when he was refused a draw by the Master. Appellant also stated that he started going to sea in 1945 when he was 14 years of age.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his decision and concluded that the charge and four specifications had been proved by plea. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-935873 and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor

authority.

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

#### FINDINGS OF FACT

On 13 February 1956, Appellant was serving as engine utilityman on board the American SS LAKE GEORGE and acting under authority of his Merchant Mariner's Document No. Z-935873 while the ship was in the port of Santos, Brazil.

On this date, Appellant was in an intoxicated condition when he grabbed the Master after he had refused to permit Appellant to make a draw at the precise time. The Chief Engineer and then the First Assistant Engineer attempted to restrain Appellant and they were also assaulted by him. Appellant was finally subdued and temporarily removed from the ship by the local police authorities.

Appellant's prior record consists of an admonition in February 1955 for failure to join; a four months' suspension on twelve months' probation in May 1955 for failure to perform duties due to intoxication; a ten months' outright suspension and six months' suspension on five years' probation in December 1955 for assault and battery and failure to join. The latter order included the prior four months' probationary suspension. Appellant was able to commit the present offenses because he had not surrendered his document after receiving the Examiner's decision of December 1955 by mail.

#### BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant appeals from the severity of the order. He states that all of his offenses during the past year were caused by intoxication resulting from personal tribulations; his record was clear from 1945 until 1955; and the prospect of permanent removal from his only livelihood is appalling.

Appellant requests that the order be modified to a suspension for less than three years plus a period of probation in order to give him an opportunity, at a future time, to demonstrate the genuine quality of his contrition.

#### OPINION

The serious nature of these offenses is obvious since they were committed against the persons of the Master and two other licensed officers on the ship. Appellant's present conduct is

further evidence of his contempt for the order and discipline required on shipboard. Intoxication is no excuse regardless of the reason for this condition. No order other than revocation is suitable in view of Appellant's numerous offenses during a period of approximately one year.

ORDER

The order of the Examiner dated at New York, New York, on 13 April 1956, is AFFIRMED.

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

Dated at Washington, D. C., this 21st day of June, 1956.