

In the Matter of License No. ~~170284~~ ~~Miscellaneous Seaman's Documents No.~~

Issued to: SAMUEL R. DICKINSON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

1088

SAMUEL R. DICKINSON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

An Examiner of the United States Coast Guard revoked Appellant's seaman documents upon finding him guilty of misconduct. Six specifications allege that while serving as Junior Third Mate on board the United States SS ENID VICTORY under authority of the license above described, on or about 20 October 1956, Appellant assaulted two ship's officers, was insubordinate to the Master, destroyed ship's property, created a disturbance, and unlawfully had possession of a pistol.

At the hearing, Appellant was represented by counsel of his own choice. Appellant entered a plea of not guilty to the charge and each specification. After considering the evidence, the Examiner rendered the decision in which he concluded that the charge and six specifications had been proved. An order was entered revoking all documents issued to Appellant.

FINDINGS OF FACT

On 20 October 1956, Appellant was serving as Junior Third Mate on board the United States SS ENID VICTORY and acting under authority of his License No. 170916 while the ship was docked at the United States Aid Force Base at Narsarssuak, Greenland.

On the afternoon of this date, Appellant was shore drinking moderately before he returned to the ship at 1600 with a quart of whisky. At 1700, Appellant entered the officer's saloon and ordered his supper in an arrogant tone of voice. Shortly thereafter, Appellant made an unpleasant remark to the First Assistant Engineer and received an answer. Suddenly, Appellant lunged toward the First Assistant. Appellant was pulled away by the Master and messmen after several blows had been struck by Appellant. The First Assistant ran from the saloon and Appellant threw dishes, glassware and other dining equipment toward the entrance where the First Assistant had departed. When the Master attempted to restrain Appellant, he addressed the Master with abusive language before leaving the saloon.

As Appellant approached the door to the Chief Engineer's quarters, he saw the First Assistant in the room. Appellant entered, picked up a typewriter and attempted to strike the two engineering officers with it. Appellant was restrained and led away by a U.S. Army Colonel who knew Appellant

and apparently was able to reason with him.

In the passageway, Appellant saw the Chief Mate and charged at him. Appellant was knocked to the deck twice by the Chief Mate. Then the Air Police arrived and took Appellant to the Air Force Base dispensary for examination. Appellant reeked of alcohol; his speech was incoherent; he was unable to stand without wavering; he was very argumentative; and he expressed the view that various members of the crew were attempting to do him harm.

On the following morning, Appellant was separated from the ship and later repatriated to the United States. Appellant's gear was inventoried after his removal from the ship. In it, there was found a .38 caliber revolver and a box of cartridges which Appellant had retained on board without the Master's permission.

Appellant's prior record consists of a one-month suspension in 1945 for absence without leave, intoxication and possession of firearms; 2 months' outright suspension plus 2, months suspension on 12 months probation in June 1956 for assault and battery on the Chief Mate.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant admits the acts alleged but states that he was not in possession of his faculties and, consequently, did not know what he was doing at the time. This matter has caused Appellant extreme personal hardship since it occurred in 1956 and he now requests the return of his documents which were all delivered to the Coast Guard on 21 March 1958.

OPINION

The findings of fact and reasons for the Examiner's conclusion that Appellant was guilty as alleged are fully set forth in the decision of the Examiner. There is no dispute concerning the material facts.

In essence, the Examiner rejected Appellant's testimony and medical evidence by which he attempted to show that his conduct was the result of temporary insanity based on the theory of "irresistible impulse" as set forth in Davis v. United States (1897), 165 U.S. 373, and still followed in the Federal courts. Sauer v. United States (C.A. 9, 1957), 241 F.2d 640. It was stated in the Davis case that:

" The term `insanity' as used in this defense means such a perverted and deranged condition of the mental and moral faculties as to render a person incapable of distinguishing between right and wrong, or unconscious at the time of the nature of the act he is committing, or where, though conscious of it and able to distinguish between right and wrong and know that the act is wrong, yet his will, but which I mean the governing power of his mind, has been otherwise than voluntarily so completely destroyed that his actions are not subject to it, but are beyond

his control."

The evidence supports the conclusion that Appellant's conduct was caused by his voluntary intoxication. All the symptoms, when Appellant was examined at the Air Force Base dispensary, indicate that he was drunk and there is no medical evidence in the record which better supports a conclusion that his conduct was due primarily to some other cause although there is evidence of paranoia. Hence, as to insanity, Appellant's condition did not meet the test stated in the Davis case that the ability to control one's actions must have been otherwise than voluntarily destroyed. Consistent with this, it has been held that "voluntary intoxication affords no excuse, justification, or extenuation of a crime committed under its influence." Hopt v. People (1881), 104 U.S. 631; Tucker v. United States (1894), 151 U.S. 164. See also Commandant's Appeal Decision No. 984. Consequently, Appellant cannot support his claim of insanity as a good defense whether or not he was able to control his actions and it is immaterial whether Appellant has any recollection of what occurred at the times in question.

The order of revocation was justified by the seriousness of the offenses and it will be sustained despite the personal hardship to Appellant. The record clearly shows that Appellant is not an emotionally stable person and that this condition is accentuated when he drinks intoxicants. The risk of a recurrence of events such as are referred to herein cannot be taken.

ORDER

The order of the Examiner dated at Jacksonville, Florida, on 24 February, 1958, is ~~REVERSED~~ **AFIRMED**.

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

Dated at Washington, D. C., this 20th day of January, 1959.