

In the Matter of Merchant Mariner's Document No. Z-376190-D2 and all other Seaman Documents

Issued to: JOSEPH C. PFEIFFER

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1151

JOSEPH C. PFEIFFER

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.

By order dated 4 May 1959, an Examiner of the United States Coast Guard at San Francisco, California suspended Appellant's seaman documents for one month on six months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as chief electrician on board the United States SS PRESIDENT POLK under authority of the document above described, on 23 November 1958, Appellant assaulted and battered crew member Oscar Gonzales.

After considering the evidence presented at the hearing, the Examiner accepted the testimony of an eyewitness that Appellant struck the first blow in a brief fight with Gonzales. Appellant agrees that, at this time, neither participant had a weapon. The Examiner stated that the lenient order of a probationary suspension was imposed because of Appellant's prior clear record and the fact that Gonzales was not injured.

This appeal is based on the contention that there are persons whose testimony would prove that Gonzales cut Appellant with a knife shortly after the time of the fight.

What happened after the fight has no bearing on the proof of the specification. Since the Examiner accepted the above version of a disinterested eyewitness that Appellant was the aggressor, he necessarily rejected Appellant's testimony that Gonzales started the fight. There is no reason to disturb the Examiner's findings as to the credibility of the witnesses. Therefore, Appellant was guilty of the alleged offense.

ORDER

The order of the Examiner dated at San Francisco, California, on 4 May 1959, is AFFIRMED.

A. C. Richmond
Vice Admiral, U. S. Coast Guard
Commandant

Dated at Washington, D. C., this 15th day of March, 1960.