

In the Matter of Merchant Mariner's Document No. Z-365798-D2 and All Other Seaman Documents

Issued to: BENNIE CRAWFRORD

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1276

BENNIE CRAWFORD

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 19 December 1960, an Examiner of the United States Coast Guard at Philadelphia, Pennsylvania suspended Appellant's seaman documents upon finding him guilty of misconduct. The three specifications found proved allege that while serving as Chief Cook on board the United States SS STEEL ARCHITECT under authority of the document above described, on or about 4 December 1960, Appellant assaulted and battered crew member Warren G. Simmons with fists and by kicking (first specification), by striking with a can (second specification) and a jar (third specification).

At the hearing, Appellant was represented by nonprofessional counsel. Appellant entered a plea of guilty to the first specification and not guilty to the other two specifications.

The Investigating Officer introduced in evidence the testimony of three eyewitnesses other than the person allegedly assaulted and battered.

Appellant testified that he followed Simmons into his room to get back \$14.00 which Simmons had snatched from Appellant's hand in the passageway; Appellant thought the other men in the room were going to gang up on him so he fought to get out of the room but he does not remember what happened after he hit Simmons and the Boatswain the first time.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and three specifications and been proved. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of six months outright and six months on twelve months' probation.

FINDINGS OF FACT

On 4 December 1960, Appellant was serving as Chief Cook on board the United States SS STEEL ARCHITECT and acting under authority of his document while the ship was at sea after getting

under way from the Port of New York en route to Philadelphia, Pennsylvania.

FINDINGS OF FACT

About 2200 on this date, Appellant entered the room which able seaman Simmons shared with two other seamen and demanded that Simmons return Appellant's \$14.00 to him. Both seamen had been drinking and Simmons was in a drunken condition. The other two occupants were awakened by the argument. When the Boatswain entered and attempted to intervene, Appellant used his fist to hit Simmons in the face and he slumped to the deck in a sitting position. Appellant then this the Boatswain as he tried to hold Appellant, and he kicked Simmons in the face while he was still on the deck. Simmons face was bleeding profusely. The other two seamen remained in their bunks and yelled at Appellant to get out of the room but he kept the door closed and blocked the exit. Simmons was struck one or more blows with a beer can either held or thrown by Appellant.No one attempted to strike Appellant. When he moved toward one of the men in his bunk, the Boatswain left and called the Master. The fight was over by the time the Master arrived and ordered Appellant to go to his room.

Simmons was hospitalized ashore one night for treatment of lacerations on his head. He had received a deep scalp cut and was not considered to be fit for duty when he was released from the hospital to return for further treatment in a week.

Appellant has no prior record.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that Appellant acted in self-defense after Simmons stole the \$14.00 and struck Appellant when asked to return the money. Appellant feared that the other three crew members intended to harm him. It is submitted that the order imposed is far too severe in view of Appellant's prior clear record for 16 years and the evidence of his good character and conduct for three previous months on this voyage.

OPINION

There is no merit in Appellant's contentions. As stated by the Examiner, the testimony of the three witnesses is mutually corroborative and is not contradicted by Appellant as to what he did so Simmons, after he hit him the first time, since Appellant testified that he did not remember what then happened to Simmons. There is no evidence to support the claim that the other three seamen intended to gang up on Appellant. Two of them were in their bunks and Appellant was the one who blocked the exit from the room. On the other hand, there is testimony that not one of the three seamen attempted to strike Appellant.

There is substantial evidence that Appellant viciously attacked Simmons, while he remained in a helpless condition on the deck, and gave him a severe beating. This eliminates any possible

element of self-defense with respect to Simmons; and I agree with the Examiner that there was no justification for this beating even if Simmons had taken money from the Appellant. Such conduct would deserve an even severe order except for Appellant's prior clear record and the evidence that he had not previously been known by his shipmates to act in any manner even faintly resembling this.

Although the third specification is dismissed for lack of evidence that Appellant struck Simmons with a jar, this does not require that the order be modified.

ORDER

The order of the Examiner dated at Philadelphia, Pennsylvania, on 19 December 1960, is **AFFIRMED**.

A.C. Richmond
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 4th day of December 1961.