

In the Matter of Merchant Mariner's Document No. Z-530128-D2 and
all other Seaman Documents

Issued to: EDWARD T. CUNNINGHAM

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1323

EDWARD T. CUNNINGHAM

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 13 April 1961, an Examiner of the United States Coast Guard at Portland, Oregon suspended Appellant's seaman documents for twelve months upon finding him guilty of misconduct. The specification found proved alleges that while serving as an able seaman on board the United States SS MERMAID under authority of the document above described, on 12 March 1961, Appellant assaulted and battered, with his fist, the Third Mate.

On 25 March 1961, Appellant was served with the charge and specification and ordered to appear at a hearing on 31 March 1961. On this date, Appellant failed to appear, without explanation, and the hearing was conducted in absentia after the Examiner entered a plea of not guilty on behalf of Appellant.

The alleged offense was proved by the testimony of a disinterested witness and a logbook entry which show that Appellant struck the Third Mate in the face after he relieved Appellant of his watch due to his intoxicated condition.

Appellant has no prior record.

OPINION

The statement on appeal that the lack of finances was the reason for Appellant's failure to appear at the hearing is not acceptable. There is no indication in the record that Appellant made this situation known to the Coast Guard in order to make other arrangements.

Appellant's reply to the logbook entry and his condition on appeal are that he acted in self-defense after he was hit by the Third Mate. This is completely unsupported by the evidence.

In view of Appellant's prior clear record and the absence of injury to the Third Mate, the order will be modified.

ORDER

The order of the Examiner dated at Portland, Oregon, on 13 April 1961, is modified to provide for a suspension of six (6) months.

As MODIFIED, the order is AFFIRMED.

E. J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 2nd day of August, 1962.