

IN THE MATTER OF LICENSE NO. 339471 MERCHANT MARINER'S DOCUMENT NO.  
Z-83602-D2 AND ALL OTHER SEAMAN'S DOCUMENTS

Issued to: James B. MILLIKEN

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1626

James B. MILLIKEN

This appeal has been taken in accordance with Title 46 United States Code 239(g) and title 46 Code of Federal Regulations 137.30-1.

By order dated 25 January 1966, an Examiner of the United States Coast Guard at Tampa, Florida, suspended Appellant's seaman's documents for three months on 12 months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as a second mate on board the United States SS MARINE MERCHANT under authority of the license above described, on or about 10 January 1966, Appellant assaulted and battered a fellow crewmember.

At the hearing, Appellant was represented by non-professional counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the testimony of four witnesses to the incident.

In defense, Appellant offered in evidence the testimony of one witness, and took the stand on his own behalf.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved. The Examiner then served a written order on Appellant suspending all documents issued to him for a period of six months on 12 months' probation.

The entire decision was served on 29 January 1966, Appeal was timely filed on 9 February 1966.

FINDINGS OF FACT

On 10 January 1966, Appellant was serving as a second mate on board the United States SS MARINE MERCHANT and acting under authority of his license while the ship was in the port of San Juan, Puerto Rico.

At approximately 2130 on this date, Seaman Collins approached Appellant on the main deck and lodged a complaint relating to the use of the ship's crew in shifting the berth of the vessel. Collins was intoxicated and addressed Appellant in an obscene and abusive manner. Appellant told him to see the Chief Mate if he had a problem. Instead, Collins continued his vulgar language and Appellant slapped him across the face. Recovering from the blow, Collins took a few steps toward Appellant. Appellant then struck Collins a second time with his fist. Boatswain Harris, who came on deck in time to see this second blow, ordered Collins to go to bed, which he did.

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. No specific errors are assigned.

APPEARANCE: Schwartz & O'Connell of New York City, by Darryl R. Chason, of counsel

#### OPINION

This testimony of all the witnesses, including Appellant himself, agree that Appellant struck Seaman Collins in the face on the date and time alleged. Although there was verbal provocation present in this case, it is clear that anger and annoyance--not legitimate self-defense--was the cause of the assault.

Although such an assault is perhaps understandable, it nonetheless cannot be condoned. As a licensed officer, Appellant should be aware that this is not the approved method of disciplining intoxicated and belligerent seamen. The Examiner's order of a suspension on probation is considered just, under the circumstances.

#### ORDER

The order of the Examiner dated at Tampa, Florida, on 25 January 1966, is AFFIRMED.

P. E. TRIMBLE  
Vice Admiral, United States Coast Guard  
Acting Commandant

Signed at Washington, D. C., this 26th day of May 1967.

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