In the Matter of Merchant Mariner's Document No. Z-309364-D1 and all other Seaman Documents
Issued to: LEROY EDGAR

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1230

LEROY EDGAR

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 3 June 1960, an Examiner of the United States Coast Guard at Galveston, Texas suspended Appellant's seaman documents upon finding him guilty of misconduct. The two specifications found proved allege that while serving as the chief cook on board the United States SS BLUE GRASS STATE under authority of the document above described, on 23 April 1960, Appellant assaulted and battered messman Parker; Appellant created a disturbance.

At the hearing, Appellant agreed to proceed without counsel. Appellant entered pleas of not guilty to the charge and both specifications.

After considering the testimony of the witnesses, the Examiner rendered the decision in which he concluded that the charge and two specifications had been proved. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of six

months.

OPINION

The Examiner acepted the testimony of Appellant that he struck Parker one blow with his fist rather that with a cup as stated by Parker in his testimony. Although Appellant was provoked by some language used by Parker, this did not justify the physical attack upon Parker.

There is no evidence that Appellant created a disturbance other than by striking Parker. Hence, this specification is dismissed.

Appellant's prior record consists of an admonition in 1958 for fighting with a fellow crew member.

The six months' suspension of Appellant's document was completed in December 1960. (The record does not indicate that he requested a temporary document.) Nevertheless, for the purpose of future evaluation of the offense if this case is referred to as a prior record, the order will be modified, as a matter of record, to a three months' suspension because of the comparatively minor nature of the assault and battery committed.

ORDER

The order of the Examiner dated at Galveston, Texas, on 3 June 1960, is MODIFIED to provide for a suspension of three (3) months.

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

Signed at Washington, D. C., this 14th day of April 1961.

***** END OF DECISION NO. 1230 *****

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