

In the Matter of Merchant Mariner's Document No. Z-248669 and all  
other Seaman Documents  
Issued to: WILLIAM H. HERES

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1294

WILLIAM H. HERES

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 May 1960, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents for six months outright plus three months on eighteen months' probation upon finding his guilty of misconduct. The three specifications found proved allege that while serving as a wiper on board the United States SS SYLVIA LYKES under authority of the document above described, on 24 December 1959, Appellant caused a fire in his quarters and interfered with extinguishing it; on 3 January 1960, he interfered with securing the vessel for sea; on 20 January 1960, Appellant assaulted and battered ordinary seaman Esteve.

At the hearing, Appellant was not present but he was represented by Counsel of his own choice. Counsel entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence the testimony

of the Chief Mate and seaman Esteve as well as Official Logbook entries and extracts from the Shipping Articles.

No evidence was submitted in defense.

#### *FINDINGS OF FACT*

Between 23 December 1959 and 3 February 1960, Appellant was serving as a wiper on board the United States SS SYLVIA LYKES and acting under authority of his document.

On 24 December 1959, Appellant started a fire in a trash can in his quarters. The Chief Mate saw the smoke, went to Appellant's room and put out the fire. Appellant was sitting on his bunk in an intoxicated condition.

On 3 January 1960, Appellant was on deck near the number four hatch while intoxicated. He interfered with the operations of the deck gang in securing the vessel for sea until he was removed by the Chief Mate.

On 20 January 1960, Appellant was intoxicated in the mess hall when he started to annoy ordinary seaman Esteve. Appellant then started a fight with Esteve by hitting him in the face with a fist and threatening to hit Esteve with a stool.

Appellant's prior record consists of a probationary suspension in 1957 for failure to perform his duties, intoxication and absence without leave.

#### *OPINION*

On appeal, Appellant admits that he is guilty of the charges but states that the offenses were not quite as serious as indicated in the Examiner's decision.

The only material error in the Examiner's decision pertains to the finding that Appellant interfered with the extinguishing of the fire on 24 December. The record indicates that Appellant did not interfere but simply did not assist in putting out the fire. Consequently, this specification is found proved in part.

The seriousness of the offenses found proved justifies the order imposed by the Examiner.

The order of the Examiner at New Orleans, Louisiana, on 19 May 1960, is AFFIRMED.

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

Signed at Washington, D. C., this 8th day of March 1962.

\*\*\*\*\* END OF DECISION NO. 1294 \*\*\*\*\*

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