

In the Matter of Merchant Mariner's Document No. Z-198889-D2
Issued to: JOHNNY CASPER

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

570

JOHNNY CASPER

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 11 February, 1952, an Examiner of the United States Coast Guard at New Orleans, Louisiana, suspended Merchant Mariner's Document No. Z-198889-D2 issued to Johnny Casper upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as messman on board the American SS JOHN L. SULLIVAN under authority of the document above described, on or about 22 January, 1952, while said vessel was at sea, he assaulted and battered a crew member, Bernard Eggerson, with a knife, inflicting a wound.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant stated, in mitigation, that Eggerson argued with Appellant every morning and this led to the stabbing when Appellant "got hot" on the morning of 22 January, 1952.

At the conclusion of the hearing, having given both parties an opportunity to submit argument and proposed findings and conclusions, the Examiner announced his findings and concluded that the charge and specification had been proved by plea. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-198889-D2, and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of eighteen months; twelve months' outright suspension and the balance of six months on probation for twenty-four months from 11 February, 1952.

From that order, this appeal has been taken, and it is urged that Eggerson had been "picking on" Appellant during the voyage and that Appellant had only been acting in self-defense since Eggerson started the fight by throwing a wooden stool at Appellant. In view of this and also because Appellant paid Eggerson for his lost wages, Appellant feels that the outright suspension of twelve months was too harsh. Appellant requests that this suspension be reduced to the time he has already lost.

Based upon my examination of the Record submitted, I hereby make the following

FINDINGS OF FACT

On 22 January, 1952, Appellant was serving as messman on board the American SS JOHN L. SULLIVAN and acting under authority of his Merchant Mariner's Document No. Z-198889-D2 while the ship was enroute to New Orleans, Louisiana.

On the morning of this date, Appellant and Eggerson engaged in an argument which led to a tussle and an exchange of blows. When the two men separated, Appellant pulled out a pocketknife which had a three or four inch blade. When Eggerson saw the knife, he picked up a messroom stool for protection. He also threw a dish which hit Appellant on the hand. Appellant pursued Eggerson and inflicted a gash in the upper thigh of his left leg. The wound was about 1 1/2

inches long and 1/2 inch deep. It was not serious but required three stitches and Eggerson was confined to his bunk until the completion of the voyage on 6 February, 1952, in order to insure that the wound would heal properly.

OPINION

The facts as found by the Examiner, and which are based upon the summary of the investigation presented by the Investigating Officer in his opening statement, clearly indicate that Appellant was the aggressor and that there was no need for him to use a knife to protect himself in self-defense. Under these circumstances, I feel that the suspension order imposed by the Examiner was lenient rather than excessive. This was an unjustified assault with a deadly weapon which might have resulted in serious injury or death. Since it is not appropriate for me to increase the severity of the order, I will sustain the suspension imposed by the Examiner.

ORDER

The order of the Examiner dated 11 February, 1952, should be, and it is, AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 2nd day of June, 1952.

***** END OF DECISION NO. 570 *****

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