

In the Matter of Merchant Mariner's Document No. Z-69057
Issued to: GEORGE HARRIS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

737

GEORGE HARRIS

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.

By order dated 6 November, 1953, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-69057 issued to George Harris upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as a bedroom steward on board the American SS INDEPENDENCE under authority of the document above described, on or about 26 August, 1953, while said vessel was at sea, he wrongfully molested a passenger, Miss Nancy Roehm, by putting his arms around her waist and trying to kiss her.

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. Appellant was represented by an attorney of his own selection and he entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the deposition of Miss Nancy

C. Roehm.

After the Examiner denied counsel's motion to dismiss on the ground of insufficient evidence to substantiate the charge, Appellant testified under oath in his own behalf. He stated that his only contact with Miss Roehm was when she pushed him just after she had left the bathroom and he was going towards the bathroom in order to put a bath mat and towels in the bathroom.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-69057 and all other licenses, certificates, endorsements and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that the requirements of the "substantial evidence" rule have not been complied with since the evidence indicates that Miss Roehm was disposed to continue the conversation which she had initiated and that Appellant committed no act other than placing the bath mat in the bathroom at the request of Miss Roehm. Appellant contends that in view of his clear record for 26 years at sea and his good reputation, any doubts should be resolved in favor of permitting him to continue his livelihood of going to sea. It is respectfully requested that the order be modified to a suspension.

APPEARANCES: Richard P. Jones, Esquire, of New York City, of
Counsel. Counsel.

FINDINGS OF FACT

On 26 august, 1953, Appellant was serving as a bedroom steward on board the American SS INDEPENDENCE and acting under authority of his Merchant Mariner's Document No. Z-69057 while the ship was at sea.

At about 2130 on this date, Appellant was performing his regular duties in the stateroom of Miss Nancy C. Roehm when she

entered and asked Appellant if he had seen her sister. Appellant said that she had left. Miss Roehm left the stateroom door open and told Appellant to continue what he was doing. She went to the bathroom to comb her hair and brush her teeth. The bathroom was small and Miss Roehm was between the towel rack and the door which remained open. After some further light conversation, Miss Roehm agreed, upon Appellant's repeated suggestion, that he should leave an extra bath mat. From the doorway to the bathroom, Appellant reached around Miss Roehm and put the mat on the towel rack. She did not have room to move out of his way. After Appellant placed the mat on the rack, he put both arms around Miss Roehm, said he liked her and tried to kiss her as he leaned forward. Miss Roehm pushed Appellant away but he attempted again to kiss her and she shoved him away more forcibly. Appellant stepped aside and Miss Roehm went into the stateroom and picked up her pocketbook from her lower bunk. While she was doing this, Appellant asked her several times not to tell anyone that he liked her. Miss Roehm answered that she would not tell but she immediately departed from the stateroom and made a report of the incident.

OPINION

I agree with the Examiner that there is substantial evidence to support the allegations despite the repeated denials by the Appellant. There is a direct conflict between the testimony of Miss Roehm and that of Appellant. The Examiner rejected the denials of the Appellant in favor of the version given by Miss Roehm. In support of this position, there is nothing in the record to indicate any reason why Miss Roehm would fabricate a story which was obviously most embarrassing for her to report and testify about. On the other hand, there is every reason why Appellant should deny the accusations in an attempt to retain possession of his seaman's document.

Simply because Miss Roehm conversed with Appellant in a friendly manner is no reason why he should have forced his attentions upon her. And the facts as found show that Miss Roehm totally rejected Appellant's advances at all times. There is no evidence to show that she intended that Appellant should put the bath mat in the bathroom while she was still in that room. In fact, her testimony is directly to the contrary.

Every passenger on board a ship of the United States Merchant Marine is entitled to complete freedom from personal interference. It was sated more than a century ago that the contractual obligation to female passengers is one of peculiar responsibility and delicacy; and the contract includes an implied stipulation against immodesty of approach, disregard of feelings, and every interference with the passenger's person. *Chamberlain v. Chandler*, Fed. Cas. 2575, decided in 1823.

It is a privilege to be able to work on American merchant vessels and Appellant has forfeited this privilege. Despite Appellant's prior clear record, the order of revocation will be sustained because of the seriousness of the offense.

ORDER

The order of the Examiner dated at New York, New York, on 6 November, 1953, is AFFIRMED.

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

Dated at Washington, D. C., this 28th day of April, 1954.

***** END OF DECISION NO. 737 *****

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