

In the Matter of Merchant Mariner's Document No. BK-308991
Issued to: JOHNNIE LEE JACKSON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

343
JOHNNIE LEE JACKSON

This appeal comes before me by virtue of Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

Appellant was charged with misconduct before an Examiner of the United States Coast Guard at Norfolk, Virginia, based upon specifications alleging that while serving as a messman on the American SS TOWANDA VICTORY, under authority of his duly issued Merchant Mariner's Document No. BK-308991, he did

- (1.) On or about 22 March, 1949, while said vessel was in the port of Cherbourg, France, unlawfully have in his possession, and concealed in his clothing, a bread knife with an eight inch blade which was a deadly weapon.
- (2.) On or about 22 March, 1949, while said vessel was in Cherbourg, France, attempt to assault the Second Officer of said vessel with a deadly weapon while under the influence of liquor.
- (3.) Fail, without justifiable cause, to respond to a summons served upon him by an authorized officer of the United States Coast Guard.

Appellant voluntarily waived his right to representation by counsel and entered a plea of "guilty" to the first and third specifications, but pleaded "not guilty" to the second specification. The Second Officer testified in support of the charge and the Appellant voluntarily took the stand in his own behalf. At the conclusion of the hearing, the Examiner found the

first and third specifications "proved by plea" and the second specification "proved" by the evidence. Based on these findings, the Examiner concluded that the charge of misconduct had been proved and he, thereupon, entered an order revoking said Merchant Mariner's Document No. BK-308991 and all other valid documents issued by the Coast Guard or any predecessor agency and held by Appellant.

In his appeal, Appellant states only that he does not think that he "got a fair break on this deal." At the hearing, Appellant testified that he had a wife, two children, a brother and other relatives whom he has to help support.

There has been no previous disciplinary action taken against Appellant's documents but there is a charge of misconduct pending which relates to his activities aboard another ship in 1948.

FINDINGS OF FACT

On or about 22 March, 1949, Appellant was serving as a member of the crew in the capacity of messman on board the American SS TOWANDA VICTORY under authority of Merchant Mariner's Document No. BK-308991. At a dance hall in Cherbourg, the Appellant and the Second Officer of the TOWANDA VICTORY engaged in an altercation in the course of which the Second Officer poured whiskey on the Appellant's face. After both men had returned to the ship, the Appellant was creating a disturbance aboard and the Second Officer sought to determine the source of the disturbance. He found the Appellant in the officers' passageway. The Second Officer ordered Appellant out of the officers' quarters; whereupon, Appellant drew a bread knife which had a blade 7 3/4 inches long and attacked the Second Officer. The Second Officer grasped the hand holding the knife, then subdued and handcuffed him with the assistance of the watch officer. At the time of this encounter, Appellant admittedly was under the influence of intoxicants and had been drinking for three or four days. Appellant was boisterous, partially coherent and apparently had lost control of his reason.

The testimony at the hearing was directly conflicting as to most of the above facts but the testimony discloses that Appellant admits he had stated, prior to the hearing, that he had no recollection as to what had happened.

Also introduced in evidence is a statement signed by

twenty-four members of the crew of the SS BENJAMIN HAWKINS (the ship on which Appellant was serving when his alleged misconduct took place in 1948) requesting that Appellant's documents be revoked because he often endangered lives by fighting with fire axes, stove poker, knives, bottles and other deadly weapons.

OPINION

Assaults by seamen on superior officers are considered as offenses of a serious nature particularly since they tend to undermine the authority necessary for the maintenance of discipline on shipboard.

The facts brought out in testimony are legally sufficient to sustain the findings made by the Examining Officer in connection with the second specification. Appellant's conflicting testimony can be given little or no weight due to its contradictory nature. In this way, he discredited all of his testimony bearing on the main issue.

The first and third specifications were "proved by plea;" the testimony proves the second specification; therefore, the Examiner's findings are in order.

In view of the nature of the offenses alleged and proved, the substantial evidence upholding the specifications and the evidence submitted which indicates the Appellant's dangerous character, the penalty imposed is not considered to be excessive.

CONCLUSION AND ORDER

The order of the Examiner dated 22 April, 1949, should be, and it is AFFIRMED.

J.F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 23rd day of June, 1949.

***** END OF DECISION NO. 343 *****

