

In the Matter of Merchant Mariner's Document No. Z-772346-D1
Issued to: ROBERT W. REESE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

485

ROBERT W. REESE

Title 46 United States Code 239(g) authorizes me to entertain this appeal which has been taken in accordance with said statute and Title 46 Code of Federal Regulations 137.11-1. The notice of appeal was submitted on 21 November, 1950.

On 25 October, 1950, an Examiner of the United States Coast Guard at Baltimore, Maryland, suspended Merchant Mariner's Document No. Z-772346-D1 issued to Robert W. Reese upon finding him guilty of "misconduct" based upon a specification alleging that while serving as assistant pantry utilityman on board the American S.S. AFRICAN LIGHTNING, under authority of the document above described, on or about 21 August, 1948, he committed assault and battery with a dangerous weapon on the person of a crew member, N. H. Smith, while said vessel was in a domestic port.

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. He was advised of his right to be represented by counsel of his own choice but he voluntarily elected to act as his own counsel. Appellant entered a plea of "guilty with an explanation" to the charge and specification. The explanation was that Appellant had picked up a razor blade and cut Smith on the face with it when Smith had

approached Appellant with a broken beer bottle in an upraised position and threatened to kill him. The Examiner stated that he would accept the plea of "guilty" tentatively.

The Investigating Officer then made his opening statement and informed the Examiner that there were sworn statements available which had been taken on 7 November, 1949, and 8 November, 1949, respectively, from the person attacked and the witness in the room at the time. After Appellant had said that he had no objection to these statements being offered in evidence so that the Examiner could determine the seriousness of the offense and whether to accept the plea of "guilty", the Examiner instructed the Investigating Officer to offer the two statements in evidence. The same procedure was followed with respect to a sworn statement given by Appellant on 18 January, 1949, and a certified copy of an excerpt from the official Log of the S.S. AFRICAN LIGHTNING for the date of 21 August, 1948. The Examiner received all four of these documents in evidence as exhibits of the Investigating Officer. After considering the plea in the light of the statements, the Examiner accepted the plea of "guilty" without qualification.

Both the Investigating Officer and Appellant waived the opportunity to submit an argument or to propose findings of fact and conclusions. The Examiner then found the specification "proved by plea" and the charge of "misconduct" "proved". He entered an order suspending Merchant Mariner's Document No. Z-772346-D1, and all other valid licenses or certificates of service held by Appellant, for a period of nine months; three months of this suspension was ordered to be outright and the remaining six months on six months probation.

FINDINGS OF FACT

On 21 August, 1948, Appellant was serving as assistant pantry utilityman on board the American S.S. AFRICAN LIGHTNING, under authority of Merchant Mariner's Document No. Z-772346-D1, while said vessel was in the port of Boston, Massachusetts.

On this date, Appellant went ashore with Smith (the person allegedly assaulted) and another member of the crew to drink some beer. When Appellant and the other man returned to the ship, Smith remained ashore to make a telephone call. When he returned to the ship, he entered his quarters. Appellant and two other shipmates

also lived in the same forecastle. Appellant was present as well as at least one other crew member.

Smith sat on his bunk and kidded Appellant about his feminine mannerisms. Eventually both men became angry and Smith got up from his bunk, walked toward Appellant, picked up a beer bottle and threatened to hit Appellant with it if he did not leave the forecastle. A third party told Smith to "knock it off". Smith put the bottle down and sat on his bunk. Without further provocation, Appellant picked up a razor blade and slashed Smith on the left side of his face. Appellant ran out of the forecastle and Smith was taken to the hospital.

Police came aboard and arrested Appellant. He was kept in jail without bail for about three weeks. Since Smith did not press the charges, Appellant was released without any action having been taken to prosecute him.

Appellant has been going to sea since 1946 and there is no record of any other disciplinary action having been taken against Appellant either before or after this alleged offense in 1948.

OPINION

Appellant has raised no specific points on appeal so it can only be assumed that he questions the sufficiency of the sworn statements to overcome his explanation of his plea of "guilty".

It is my opinion that these statements contain adequate evidence to support the order imposed by the Examiner. Assault and battery with a dangerous weapon is a very serious offense and is usually followed by a much more severe order than was meted out to Appellant in this case. But this comparatively mild suspension appears to be satisfactory for the reasons set forth in the Examiner's opinion. Therefore, the order of the Examiner will be upheld.

ORDER

The Order of the Examiner, dated 25 October, 1950, should be, and it is, AFFIRMED.

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

Dated at Washington, D.C., this 23rd day of January, 1951.

***** END OF DECISION NO. 485 *****

[Top](#)