

In the Matter of Merchant Mariner's Document No. Z-133222-D1 and  
All Other Seaman Documents  
Issued to: MODESTO SANCHEZ

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1308

MODESTO SANCHEZ

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 26 July 1961, Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents for six months upon finding him guilty of misconduct. The specification found prove alleges that while serving as an Oiler on board the United States SS EVIBELLE under authority of the document above described, on 24 June 1961, Appellant assaulted fireman-watertender Beasley with a carving knife while the ship was on a foreign voyage.

At the hearing, Appellant voluntarily elected to act as his own counsel. Appellant entered a plea of guilty to the charge and specification. The Examiner changed the plea to not guilty when Appellant indicated that he acted in self-defense.

The Investigating Officer introduced in evidence the testimony of Beasley and third cook Jones. Appellant did not testify or produce witnesses; but he stated, during cross-examination of the

two witnesses, that he was "mad" (R. 8, 17, 32) and chased Beasley with a carving knife until Appellant was handcuffed by the Master after throwing the knife at Beasley (R. 15, 22). Appellant also stated that he knew Beasley had the knife in his pocket when Appellant got the carving knife (R. 12, 25, 33).

#### *FINDINGS OF FACT*

on 24 June 1961, Appellant was serving as an oiler board the United States SS EVIBELLE and acting under authority of his document while the ship was at sea.

During the argument with fireman-watertender Beasley on this date, Beasley stabbed Appellant in the left arm with a pocketknife. Appellant ran to the galley followed by Beasley, picked up a carving knife, and chased Beasley, who had no weapon at this time, to the engine room where he obtained a piece of pipe. The Master and others succeeded in handcuffing Appellant after he threw the knife at Beasley. Appellant was hospitalized at Natal, Brazil. Beasley was not injured.

#### *BASES OF APPEAL*

This appeal has been taken from the order imposed by the Examiner. It is contended that Appellant did not provoke the knifing by Beasley; he acted in self-defense when he chased Beasley after the latter followed Appellant to the galley with a knife; Appellant believed he was in danger of grave bodily harm.

Appearance: Bonilla, Thomas and De Ases of Corpus Christi, Texas by Eduardo E. De Ases, Esquire, of Counsel.

#### *OPINION*

The testimony of the neutral witness Jones was that Beasley did not have a weapon in his hand and was talking with the second cook when Appellant picked up the carving knife and chased Beasley. Apart from this, Appellant's statements at the hearing are sufficient to preclude any possibility that his conduct was excused on the ground of self-defense. Appellant admitted that the actual

reason for chasing Beasley was because Appellant was angry. (R. 17) after having been injured by Beasley. The likelihood of serious or fatal injury, if Appellant had caught Beasley, justifies the severe order imposed by the Examiner.

*ORDER*

The order of the Examiner dated at New Orleans, Louisiana on 26 July 1961, is AFFIRMED.

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

Signed at Washington, D.C., this 7th day of May 1962.

\*\*\*\*\* END OF DECISION NO. 1308 \*\*\*\*\*

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