

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-849321-D5 AND  
ALL OTHER SEAMAN DOCUMENTS  
Issued to: Thad Wade Hinson

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1520

Thad Wade Hinson

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 9 April 1965, an Examiner of the United States Coast Guard at Galveston, Texas revoked Appellant's seaman documents upon finding him guilty of misconduct. The offense alleged was proved by evidence that while serving as Boatswain on board the United States SS RIDGEFIELD VICTORY under authority of the document above described, on 29 January 1965, Appellant assaulted and battered able seaman McKinnon while the ship was at sea.

On 29 January, McKinnon was alone in his room sleeping on his bunk with the light on and the door locked. Between 0300 and 0400, Appellant obtained the key to McKinnon's room from the Chief Mate on some pretext, entered the room with ordinary seaman Reynolds, and both beat McKinnon violently with their fists while he was in his bunk. McKinnon was pulled from his bunk, kicked by Appellant and Reynolds, and thrown back in his bunk. Reynolds returned to the room after Appellant had left and further battered McKinnon

with a beer bottle. McKinnon suffered three or four deep lacerations on the face, a broken nose, and a broken tooth. Both of his eyes and numerous other parts of his body were badly bruised and swollen. The wounds bled profusely and the bunk was soaked with blood.

Barely conscious, McKinnon went to the chief Mate's room and told him that he had been beaten by Appellant and Reynolds. The latter two seamen were put in irons and discharged from the ship on 8 February. Appellant's prior record consists of a two months' suspension in 1957 for failure to perform duties while absent without permission

The offense was proved by the testimony of McKinnon and the Chief Mate. Appellant denied that he was guilty but his testimony was rejected by the Examiner.

On appeal, it is contended that the findings and conclusions of the Examiner are against the weight of the evidence and against the law. Counsel has not elaborated on these bare contentions.

APPEARANCE: Dorfman, Pechner, Sacks and Dorfman of  
Philadelphia, Pennsylvania by Bernard Sacks,  
Esquire, of Counsel

#### OPINION

Appellant's contentions are without merit. The Examiner placed particular reliance on the fact that McKinnon was in a very stunned and shocked condition when he told the Chief Mate that he had been attacked by Appellant and Reynolds. As stated by the Examiner, spontaneous exclamations made under such circumstances are an exception to the hearsay rule due to the lack of opportunity for reflection and fabrication.

In addition to Appellant's flat denial of guilt, his testimony and that of the only other witness for the defense was inconsistent in other respects with the testimony of the Master and Chief Mate concerning the surrounding circumstances. These matters are detailed in the Examiner's decision and need no further discussion here in view of the blanket nature of this appeal and the absence of clear error on the record. *Attorney General's Manual on the Administrative Procedure Act (1947)*, p. 84, note 5.

It is beyond question that a seaman who participates in such a brutal beating is not fit to serve on merchant vessels of the United States. Hence, the order of revocation will be sustained.

*ORDER*

The order of the Examiner dated at Galveston, Texas, on 9 April 1965, is AFFIRMED.

W. D. SHIELDS  
Vice Admiral, United States Coast Guard  
Acting Commandant

Signed at Washington, D. C., this 1st day of October 1965.

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