

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z998665 AND ALL  
OTHER SEAMAN DOCUMENTS.

Issued to: Perry L. Bullock

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1551

Perry L. Bullock

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-19.

By order dated 29 October 1965, an Examiner of the United States Coast Guard at Lake Charles, Louisiana suspended Appellant's seaman's documents for 6 months outright upon finding him guilty of misconduct. The specification found proved alleges that while serving as a deck maintenance man on board the United States SS FORT HOSKINS under authority of the document above described, on or about 13 October 1965, Appellant wrongfully assaulted and battered one Telesfaro Vasquez, a fellow crewmember.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the testimony of Vasquez and his two roommates and certain documents.

In defense, Appellant testified in his own behalf.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of six months outright.

The entire decision order was served on 8 November 1965. Appeal was timely filed on 24 November 1965.

#### *FINDINGS OF FACT*

On 13 October 1965, Appellant was serving as a deck maintenance man on board the United States SS FORT HOSKINS and acting under authority of his document.

On the evening of 13 October 1965, while FORT HOSKINS was at Wilmington, North Carolina, a minor scuffle of some nature occurred on deck between Appellant and one Telesfaro Vasquez.

The vessel got under way and Vasquez and his two roommates, Talbot and Hughes, went to bed. About fifteen minutes later, at approximately 2345, Appellant entered their room, turned on the light and told Vasquez to come out on deck.

Vasquez got up and picked up a flashlight. Appellant left the room. Vasquez shut the door, turned off the light and sat down at a desk.

Appellant reentered the room and again turned on the light. Vasquez threw a chair at him, knocking him to the deck. Both then engaged in physical combat. Appellant wrestled Vasquez to the deck. A fourth crewmember entered the room and stopped the fight.

Vasquez had suffered a black eye.

#### *BASIS OF APPEAL*

On appeal Appellant argues that the evidence is insufficient to support a finding that he was armed so as to have justified Vasquez's throwing the chair at him.

APPEARANCE: Schwartz and Lapin, of Houston, Texas, by Newton B. Schwartz

*OPINION*

The testimony of Vasquez was that when Appellant first left the room he announced that he was going to get a weapon since Vasquez had armed himself with a flashlight. On his return, says Vasquez, Appellant was armed with something, what he could not say, which something fell from his hand when he was struck by the chair. The unidentified object rolled under a bunk.

The testimony of the other occupants of the room says nothing about Appellant threatening to get a weapon, nothing about his having anything in his hand when he returned, and nothing about any object rolling under a bunk.

There is no evidence of any object being retrieved from under a bunk at any time.

I am not persuaded that there is substantial evidence in this record to justify a finding that Vasquez acted only in legitimate self-defense in throwing the chair and that Appellant was the aggressor in an assault.

However, it is clear to me that Appellant provoked the disorder aboard the vessel by his unwarranted intrusions into the quarters of others and by demanding that Vasquez go out on deck with him, an invitation which is usually construed as an offer to fight.

*CONCLUSION*

I conclude that Appellant was guilty of wrongfully provoking a disturbance aboard FORT HOSKINS on 13 October 1965.

*ORDER*

The findings of the Examiner are modified to reflect that it

is found proved that Appellant wrongfully provoked a disturbance aboard FORT HOSKINS on 13 October 1965, and the order is modified to provide for outright suspension of two months. As modified the findings and order of the Examiner entered at Lake Charles, Louisiana, on 29 October 1965, are AFFIRMED.

P.E. Trimble  
Rear Admiral, U.S. Coast Guard  
Acting Commandant

Signed at Washington, D. C., this 6th day of May 1966.

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