

In the Matter of Merchant Mariner's Document No. Z-738442 and all
other Licenses and Documents
Issued to: WILLIAM H. CARTER

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

899

WILLIAM H. CARTER

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 25 October 1954, an Examiner of the United States Coast Guard at Seattle, Washington, revoked Merchant Mariner's Document No. Z-738442 issued to William H. Carter upon finding him guilty of misconduct based upon three specifications alleging in substance that while serving as a messman on board the American SS HAWKEYE MARINER under authority of the document above described, on or about 3 June 1954, while said vessel was in the port of Pusan, Korea, he wrongfully engaged in a disturbance involving crew member Hugh Weston; and he wrongfully struck and cut crew member Hugh Weston with a dangerous weapon; to wit, a knife. The other specification alleges that while in the service of the USNS MISSION LORETO as an ordinary seaman and acting under authority of his document, he failed to join his vessel upon her departure from Yokohama, Japan on 17 July 1954.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and

the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification alleging a failure to join. When Appellant refused to plead to the other two specifications, the Examiner entered pleas of "not guilty" on behalf of Appellant.

Thereupon, the Investigating Officer made his opening statement. He introduced in evidence the testimony of LeRoy Reed, who was a witness to the incidents on the HAWKEYE MARINER, and certified copies of entries in the Official Logbook of the HAWKEYE MARINER.

Appellant did not submit any evidence. He stated that he did not desire to make a statement and that he did not have any witnesses to call.

At the conclusion of the hearing, both parties having waived argument, the Examiner announced his decision and concluded that the charge and three specifications had been proved. The failure to join specification was proved by plea. The Examiner then entered the order revoking Appellant's Merchant Mariner's Document No. Z-738442 and all other licenses and documents issued to Appellant by the United States Coast Guard or its predecessor authority.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 3 June 1954, Appellant was serving as a messman on board the American SS HAWKEYE MARINER and acting under authority of his Merchant Mariner's Document No. Z-738442 while the ship was in the port of Pusan, Korea.

About 0700 on this date, Appellant and Weston, an electrician, were fighting in a passageway. The noise caused by this disturbance awakened the witness Reed and other members of the crew.

At approximately 0730, Weston was sitting in the crew messroom when Appellant entered and attacked Weston with a paring knife which had a blade about three inches long. Weston suffered several cuts from the knife as he scuffled with Appellant and tried to disarm him. Finally, another member of the crew held Appellant while Reed took the knife out of Appellant's hand.

Weston was taken to a hospital for treatment of his knife wounds. The military police were called and they arrested Appellant. He was removed from the Shipping Articles by the U. S. Consul at Pusan on 8 June 1954.

On 17 June 1954, Appellant was in the service of the USNS MISSION LORETO as an ordinary seaman and acting under authority of his Merchant Mariner's Document No. Z-738442. On this date, Appellant failed to join his ship upon her departure from Yokohama, Japan.

Appellant's prior record consists of a six months' suspension in 1951 for intoxication, disorderly conduct and destruction of ship's property.

BASES OF APPEAL

This appeal has been taken from the order imposed by the examiner. Appellant contends that the testimony of Reed was inconsistent with the statement he made in Pusan; five days' notice was not enough time for Appellant to prepare his defense; Appellant's request for a continuance in order to obtain witnesses was refused; and Appellant was without funds to retain a lawyer.

Appellant also claims that Weston caused the trouble by provoking Appellant by the use of grossly insulting language; Weston cut Appellant with a knife and Appellant later used a knife in self-defense since Weston had a knife.

For these reasons, Appellant petitions the Commandant for the restoration of his seaman's documents.

APPEARANCE ON APPEAL: Messrs. Kane and Spellman of Seattle,

Washington, by Gordon R. Tobin, Esquire,
of Counsel.

OPINION

Appellant's contentions on appeal do not persuade me to modify the Examiner's order of revocation. The uncontradicted testimony of seaman Reed was accepted by the Examiner as representing the true version as to what happened. Appellant had full opportunity to present his claim of self-defense at the hearing. Nevertheless, Appellant stated that he did not choose to testify; nor did he request a continuance to obtain witnesses as is contended on appeal.

When Appellant was served with the charge and specifications on 20 October 1954, he indicated that 25 October 1954 was a satisfactory date on which to hold the hearing. During the hearing on the latter date, Appellant specifically stated that he would represent himself and he did not submit any request for witnesses to appear in his behalf.

In view of the dangerous propensities displayed by Appellant when he attacked Weston, it is my opinion that Appellant should not be permitted to ship on merchant vessels of the United States.

ORDER

The Order of the Examiner dated at Seattle, Washington on 25 October 1954 is AFFIRMED.

J. A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 23rd day of May, 1956.

***** END OF DECISION NO. 899 *****

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