In the Matter of Merchant Mariner's Document No. Z-614617
Issued to: ROBERT CHARLES HUNDERTMARK

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

986

ROBERT CHARLES HUNDERTMARK

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 20 December 1956, an Examiner of the United States Coast Guard at New York, New York, suspended Appellant's seaman documents upon finding him guilty of misconduct. The specifications alleges that while serving as a fireman-watertender on board the American SS MORMACISLE under authority of the document above described, on or about 21 March 1956, Appellant assaulted and battered a member of the crew named Henry F. Farrell.

The hearing was commenced on 28 March 1956 and adjourned several times while attempts were made to obtain the deposition of the seaman allegedly assaulted. On 10 December, the Investigating Officer introduced in evidence the deposition and rested his case. Appellant declined the opportunity to testify stating that he would remain silent, except for his plea of not guilty, because he could not prove his case.

After considering the evidence, the Examiner announced the decision in which he concluded that the charge and specification

had been proved. An order was entered suspending all documents, issued to Appellant, for a period of three months outright and six months on eighteen months probation.

The decision was served by mail on 20 December 1956. Appeal was timely filed on 24 December 1956.

FINDINGS OF FACT

On 21 march 1956, Appellant was serving as a fireman-watertender on board the American SS MORMACISLE and acting under authority of his Merchant Mariner's Document no. Z-614617 while the ship was in the Port of New York.

Appellant and Henry F. Farrell, an oiler, shared a room on the ship. These two seamen had engaged in a fight with each other about six months earlier during the same voyage.

After completing the 2000 to 2400 watch on 20 March 1956, Farrell went up on deck and had several drinks. About 0100, Farrell went to his room where Appellant was sitting on his bunk after standing the same watch in the engine room. Both seamen were preparing to go ashore. Appellant asked Farrell why he had not talked to Appellant during the watch. Farrell stated that he did not want to listen to Appellant and angry words were exchanged. As Farrell bent over the basin to wash his face, he was struck on the head from behind by Appellant and knocked to the deck. Farrell was found lying on the deck by another crew member shortly afterward. Farrell was bleeding from his nose and his face was bruised. He was given first aid at the time and treated at the U. S. Public Health Service Hospital later in the morning. Farrell said that no weapon had been used by Appellant. In reply to a log entry about this incident, Appellant denied having attacked Farrell.

Appellant's prior record consists of a probationary suspension in 1947 and an admonition in 1951.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that he did not strike Farrell; the

latter's sworn statement are inaccurate; and Farrell admitted that he was under the influence of alcohol at the time of the alleged assault.

OPINION

Appellant chose to represent himself at the hearing and to rest on his plea of not guilty although he was fully advised by the Examiner of the right to testify. Opposed to Appellant's bare denial of the allegations is the deposition of Farrell which contains substantial evidence in support of the specification. Farrell admitted that he had been drinking but only after he had completed standing his watch at midnight. There was ill feelings between the two seamen as a result of their prior fight and Farrell's deposition indicates that nobody else except himself and Appellant was in the room when Farrell was injured. Under these circumstances, I am inclined to agree with the Examiner's acceptance of the version presented in Farrell's deposition. It was up to Appellant to refute this evidence if he could. Nevertheless, he did not attempt to present any evidence in his behalf. Consequently, the conclusions and order of the Examiner will be sustained.

ORDER

The order of the Examiner dated at New York, New York, on 20 December 1956, is AFFIRMED.

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

Dated at Washington, D. C., this 2nd day of October, 1957.

***** END OF DECISION NO. 986 *****

Top