

In the Matter of License No. 185747 Merchant Mariner's Document No.
Z-1040167 and all other Seaman Documents
Issued to: WALTER E. SHUTTLEWORTH

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1123

WALTER E. SHUTTLEWORTH

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 20 March 1959, and Examiner of the United States Coast Guard at Galveston, Texas, revoked Appellant's seaman documents upon finding him guilty of misconduct. The three specifications found proved allege that while serving as Second Mate on board the United States SS VALLEY FORGE under authority of the license above described, on or about 22 October 1958, Appellant wrongfully directed foul and abusive language toward the Chief Mate, Charles L. Kidd; on 19 November 1958, Appellant assaulted and battered the same Chief Mate; on 19 November 1958, Appellant wrongfully directed foul, abusive and threatening language toward Chief Mate Kidd.

At the hearing, Appellant was represented by counsel of his own choice. He entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence the testimony

of Chief Mate Kidd and of an eyewitness to the incident on 19 November. Appellant's only evidence was his oral deposition taken at New York in which he completely denied the alleged offenses.

After considering the evidence, the Examiner rendered the decision in which he concluded that the charge and specifications had been proved. An order was entered revoking Appellant's license and Merchant Mariner's Document.

FINDINGS OF FACT

From 18 September through 19 November 1958, Appellant was serving as Second Mate on board the United States SS VALLEY FORGE and acting under authority of his License No. 185747 while the ship was on a foreign voyage.

On 22 October 1958, the ship was in the port of Rijoka, Yugoslavia when appellant entered the Chief Mate's quarters and addresses him with foul and abusive language. Appellant was angry because he thought the Chief Mate was filing to help Appellant while he was ill. At this time, Appellant also threatened the Chief Mate but apologized on the following day. Nevertheless, the Chief Mate mailed a letter to the Coast Guard concerning Appellant's conduct on 22 October.

The ship was at Galveston, Texas, on 19 November 1958, when Appellant was served with the charge and specifications alleging three offenses on 22 October. (Two of these were later dismissed.) Shortly thereafter, Appellant located the Chief Mate in his room. The ship's Boatswain and Mr. Fred R. Gould, a lumber merchant of Galveston, were also present. Appellant grabbed the Chief Mate by the front of his shirt and addressed him with foul and abusive language. Appellant struck the Chief Mate several blows while threatening to kill him for referring the matter of 22 October to the Coast Guard. Mr. Gould left the room and returned with assistance. Appellant was still belligerent but the Chief Mate was not injured.

Appellant's prior record includes four offenses of assault or assault and battery. In 1952, Appellant's license as a Master was revoked for striking the Master of the ship and kicking him, ordering the Master to leave his ship. threatening the Chief

Engineer, using obscene and abusive language, consuming alcoholic liquor in the wheelhouse and giving some of the liquor to the Boatswain. The revocation was affirmed in *Commandant's Appeal Decision NO. 616* of 30 January 1953. By means of administrative clemency, Appellant obtained a Chief Mate's license in 1953 and another Master's license a year later.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends there is insufficient evidence to support the findings of the Examiner; the order is excessive under the circumstances; and the decision of the Examiner was influenced by Appellant's prior record which should not have been taken into consideration.

Wherefore, Appellant prays that the order of revocation be set aside or modified.

APPEARANCE: Phipps and Smith of Galveston, Texas, by Charles B. Smith, Esquire, of Counsel.

OPINION

The above findings of facts agree, in substance, with those of the Examiner and are supported by substantial evidence consisting of the testimony of the Chief Mate. With respect to the two offenses on 19 November, the testimony of the disinterested eyewitness, Mr. Fred R. Gould, corroborates that of the Chief Mate.

In view of Appellant's imposing record of prior similar offenses, the order of revocation is not excessive and will not be modified. Rather than ignoring Appellant's prior record in reaching this decision, it definitely should be considered in order to show his consistent pattern of behavior over a number of years. Appellant was given his final opportunity in 1953 to continue his livelihood at sea after his license was revoked and affirmed on appeal.

Appellant's repeated offenses of this nature seem inconsistent with the experience he must have gained during his thirty-six years

at sea. Such conduct by ship's officers is very detrimental to the maintenance of the strict discipline which is required on ships. Appellant has deprived himself of the extraordinary privilege which was granted when he was issued a license in 1953.

ORDER

The order of the Examiner dated at Galveston, Texas, on 20
March 1959, is AFFIRMED.

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

Dated at Washington, D. C., this 13th day of November 1959.

***** END OF DECISION NO. 1123 *****

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