

In the Matter of Merchant Mariner's Document No. Z-434113 and all
other Seaman Documents
Issued to: RAUL LEYENDA

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1227

RAUL LEYENDA

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 25 March 1960, 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 specification found proved alleges that while serving as a utilityman on board the United States SS BRASIL under authority of the document above described, on 6 January 1960, Appellant wrongfully struck chief utilityman Silvano Figueroa with a teapot while the ship was at sea.

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

The Investigating Officer introduced in evidence testimony by crew member Antonio Diaz that he saw someone strike Figueroa on the head with a porcelain teapot which broke from the force of the blow, and testimony by Figueroa that he saw Appellant holding the

remains of a broken teapot. This happened shortly after Figueroa hit Appellant in the face and the latter ran away.

Appellant did not testify at the hearing.

After considering the evidence, the Examiner rendered the 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 four months outright plus two months on twelve months' probation.

OPINION

The only ground for appeal submitted is that the decision of the Examiner is contrary to the weight of the evidence. There are no details to support this contention.

The Examiner accepted the above testimony by Figueroa and Diaz. As stated by the Examiner, the only reasonable inference from their testimony is that Appellant shattered a teapot on Figueroa's head. The earlier striking of Appellant by Figueroa was a separate incident. It was too remote to conclude that Appellant was acting in self-defense when he struck Figueroa with the teapot. Therefore, Appellant was guilty of the offense alleged.

ORDER

The order of the Examiner dated at New York, on 25 March 1960, is AFFIRMED.

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

Signed at Washington, D. C., this 3rd day of April 1961

***** END OF DECISION NO. 1227 *****

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