

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-1135645 AND ALL
OTHER SEAMAN'S DOCUMENTS

Issued to: John B. LUNDBORG

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1976

John B. LUNDBORG

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 6 June 1969, an Administrative Law Judge of the United States Coast Guard at San Francisco, California, suspended Appellant's seaman's documents for six months outright upon finding him guilty of misconduct. The specification found proved alleges that while serving as an A. B. on board the SS CITY OF ALMA under authority of the document above described, on or about 24 March 1969, Appellant did wrongfully assault and batter a crewmember, Wallace G. Perry.

The hearing was held in absentia. A plea of not guilty to the charge and specification was entered on behalf of Appellant.

The Investigating Officer introduced in evidence excerpts from the Shipping Articles and Official Log, and a Consular Report.

At the end of the hearing, the Administrative Law Judge rendered an oral decision in which he concluded that the charge and

specification had been proved. The Administrative Law Judge then entered an order suspending all documents issued to Appellant for a period of six months outright.

The entire decision was served on 17 January 1973. Appeal was timely filed on 12 February 1973.

FINDINGS OF FACT

On 24 March 1969, Appellant was serving as an A. B. on board the SS CITY OF ALMA and acting under authority of his documents while the ship was at sea.

On that date Appellant physically attacked Wallace Perry and inflicted serious injuries on him. Perry sustained a gash on the back of his head, cuts under his eye and to his lower lip and bruises and swelling to his face.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Administrative Law Judge. It is contended that:

(1) Appellant was not properly served with notice of time and place of hearing;

(2) Appellant was misled as to his right to counsel and the nature of the proceeding;

(3) Appellant was misled by the complaining witness; and

(4) Appellant was misinformed by Coast Guard representatives in Manila, where the matter was originally investigated.

APPEARANCE: John R. Duggan, Esq., for Appellant.

OPINION

I

An issue not raised on appeal, but which merits discussion, is the delay between the hearing and consideration of this appeal. The four year delay resulted from an inability to serve the decision and order on Appellant. Assuming that Appellant had knowledge of the proceedings against him, a question dealt with below, he had a duty to keep the proper Coast Guard official apprised of his forwarding address. Therefore, the long delay was due to Appellant's own neglect and cannot be considered as grounds for reversal.

II

The specific points raised in Appellant's notice of appeal are impossible to deal with adequately due to lack of specificity. However, it is noted that Appellant acknowledged notice of the hearing by his signature on the reverse side of the Summons and Charge Sheet (Form CG-2639) and there is an affidavit of service and notice of rights properly executed contained in the record. Without some specific allegation of impropriety it must be assumed that these items are what they purport to be and adequately reflect the actions taken. There is absolutely nothing in the record to support Appellant's assertions of irregularities and absent specific allegations pertaining thereto; there is no choice but to affirm the findings of the Administrative Law Judge.

ORDER

The order of the Administrative Law Judge dated at San Francisco, California, on 6 June 1969, is AFFIRMED.

C. R. BENDER
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 12th day of July 1973.

INDEX

Appeals

Delay in, fault of appellant

Specificity, lack of

Decisions of Examiners

Service delayed

Examiners

Findings affirmed absent specific allegation

of irregularity

Hearings

Notice of, adequacy of

Notice

Of hearing, adequacy of

***** END OF DECISION NO. 1976 *****

[Top](#)