

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT Z-388644-D5 AND ALL
OTHER SEAMAN'S DOCUMENTS
Issued to: Melvin PLEASANT

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1825

Melvin PLEASANT

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 25 June 1969, an Examiner of the United States Coast Guard at New York, N. Y., suspended Appellant's seaman's documents for six months plus six months on twelve months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as an oiler on board SS MORMACRIO under authority of the document above captioned, Appellant on 17 March 1969, assaulted and battered by beating with his fists the third assistant engineer, one Albert J. Renaud while the vessel was at sea.

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

The Investigating Officer introduced in evidence voyage records of MORMACRIO and the testimony of two witnesses.

In defense, Appellant offered in evidence his own testimony.

At the end of the hearing, the Examiner rendered a decision in which he concluded that the charge and specifications had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of six months plus six months on twelve months' probation.

The entire decision was served on 30 June 1969. Appeal was timely on 25 July 1969. Although Appellant had until 16 April 1970 to add to his original notice of appeal he has not done so.

FINDINGS OF FACT

On 17 March 1969, Appellant was serving as an oiler on board SS MORMACRIO and acting under authority of his document while the ship was at sea.

On 17 March 1969, Appellant assaulted and battered by beating with his fists the third assistant engineer, one Albert J. Renaud.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the Examiner's order is excessive.

APPEARANCE: Abraham E. Freedman, of New York, N. Y., by Martin L. Katz, Esq.

OPINION

The "Scale of Average Orders" at 46 CFR 137.20-165 shows assault and battery as meriting a six month suspension for a first offense and revocation as appropriate for a second offense.

It cannot be held as a matter of law that the order of a six month suspension was an abuse of discretion by the Examiner, and, in view of the fact that Appellant has a prior record of violent misconduct, the addition of a period of suspension on probation is seen to be lenient rather than excessive.

ORDER

The order of the Examiner dated at New York, N. Y., on 25 June 11969, is AFFIRMED.

T. R. SARGENT
Vice Admiral, U. S. Coast Guard
Acting Commandant

Signed at Washington, D. C., this 30th day of October 1970.

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