

IN THE MATTER OF LICENSE NO. 312999 MERCHANT MARINER'S DOCUMENT NO.
Z-573299-D1 AND ALL OTHER SEAMAN'S DOCUMENTS

Issued to: George Eugene Odom

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1699

George Eugene Odom

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 October 1967, an Examiner of the United States Coast Guard at Mobile, Alabama, suspended Appellant's seaman's documents for 6 months outright. The specification found proved alleges that while serving as a Second Mate on board the United States SS OCEANIC SPRAY, under authority of the license above described, on or about 11 October 1966, Appellant assaulted and battered a fellow crewmember.

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 pertinent entries from the Shipping Articles and the official logbook, the testimony of the alleged victim and another eyewitness, and the depositions of the Master, Chief Engineer, and Radio Operator.

In defense, Appellant offered in evidence his own testimony and the testimony of the Third Mate.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and specification had been proved. The Examiner then served a written order on Appellant suspending all documents issued to him for a period of 6 months outright.

The entire decision and order was served on 10 October 1967. Appeal was timely filed on 19 October 1967.

FINDINGS OF FACT

On 11 October 1966, Appellant was serving as a Second Mate on board the United States SS OCEANIC SPRAY and acting under authority of his license while the ship was in the port of Cam Ranh Bay, South Vietnam.

Around 5:00 p.m. a group of the ship's officers, including the Appellant, were in the saloon partaking of the evening meal. During the course of the meal Appellant rose from the table and hurried into the pantry, just adjacent to the dining area. Present in the pantry were the pantryman, Mr. Carl Berry, and a bedroom steward, Mr. Arthur Black. Appellant demanded to know why Black was in the pantry, where he did not belong. Black started to get up from the mop bucket he was sitting on and leave the area, when Appellant suddenly started kicking him. Before some of the other officers could subdue Appellant he had struck and kicked Black a number of times on the head, neck, and shoulders. Black did not return any blows; he lay on the deck trying to shield his face with his arms. Fortunately, Black was not seriously injured by Appellant's assault.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the specification was not proved, and that, in any event, the order was too severe.

APPEARANCE: Herndon Wilson, Esquire, of Mobile, Alabama.

OPINION

Appellant testified that he went into the pantry to order Black to leave, Black cursed and took a swing at him. Appellant stated he then pushed Black to the deck "by reflex" and that was all there was to the incident except that the Chief Engineer had words with Appellant about disturbing his little dog, who was barking loudly in the pantry. This testimony was somewhat substantiated by the Third Mate, who also testified.

On the other hand, Black, the ship's pantryman (who was an eyewitness to the whole incident), the Master, the Chief Engineer, and the Radio Operator all testified to the effect that Appellant repeatedly kicked and struck the helpless Black.

It is of course not necessarily always the number of witnesses testifying for or against a party, but the inherent believability of what is said, that should determine an examiner's finding on credibility. Here both the quantity and quality of the testimony presented outweighs Appellant's version. Appellant theorized that the Master falsified the logbook entries and fabricated the accepted version of the incident, as a clever play to get Black off the vessel. Appellant believes he was "sacrificed" in order to accomplish this purpose. The Examiner did not accept this version and explanation of the incident, and his decision on this issue is certainly justified.

Appellant also urges that the order be mitigated to a lesser period of suspension. When it is considered that Appellant a licensed officer, engaged in a vicious and unprovoked attack upon a much smaller eighteen-year old boy, there seems little reason for clemency in this case. It is also noted that Appellant has a prior record of similar misconduct: a three month suspension on probation in 1963 for assault and battery.

ORDER

The order of the Examiner dated at Mobile, Alabama, on 6 October 1967, is AFFIRMED.

P.E. TRIMBLE
Vice Admiral, U. S. Coast Guard
Acting Commandant

Signed at Washington, D. C., this 15th day of April 1968.

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