

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-739726-D1 AND  
ALL OTHER SEAMAN DOCUMENTS

Issued to: ANTONIO RIVERA GONZALEZ

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

1663

ANTONIO RIVERA GONZALEZ

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 1966, an Examiner of the United States Coast Guard at New York, N.Y., suspended Appellant's seaman documents for 2 months outright plus 4 months on 18 months' probation upon finding him guilty of misconduct. The specifications found proved allege that while serving as a general utility on board the United States SS UNITED STATES under authority of the document above described, on or about 5 August 1966, while the vessel was at sea, Appellant (1) did wrongfully assault Jasper L. Nichols, the assistant second steward, by shaking his fist at Mr. Nichols; (2) did wrongfully assault and batter Mr. Nichols; and (3) did wrongfully threaten to kill Mr. Nichols.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence entries from

the ship's Shipping Articles and its Official Logbook and the testimony of Mr. Nichols.

In defense, Appellant testified in his own behalf.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and three specifications had been proved. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of 2 months outright plus 4 months on 18 months' probation.

The entire decision was served on 7 October 1966, and appeal was timely filed.

#### *FINDINGS OF FACT*

On 5 August 1966, Appellant was serving as a general utility on board the United States SS UNITED STATES and acting under authority of his document while the ship was at sea.

At about 2000 hours on 5 August 1966, Appellant was observed at a liquor service bar in the main galley. Appellant should properly have been performing his assigned duties. Mr. Nichols ordered Appellant back to such duties and proceeded in making his routine rounds. He returned shortly to Appellant's duty station and found Appellant engaged in verbal discourse with his immediate supervisor. Mr. Nichols made an inquiry as to why Appellant was not working and, in response, Appellant addressed Mr. Nichols in abusive language and shook his fist at Mr. Nichols. Fellow crewmembers restrained Appellant and his immediate supervisor went for the master-at-arms. Later, Appellant again shook his fist at Mr. Nichols and laid hold of him by the arm, threatening to kill him when ashore.

#### *BASES OF APPEAL*

This appeal has been taken from the order imposed by the Examiner. It is contended that the Examiner's findings are not supported by the evidence and that Appellant was unduly prejudiced by his failure to obtain professional counsel to represent him at

the hearing.

APPEARANCE: Ernest Rassner, Esq., New York, N. Y.

OPINION

Appellant's choice to represent himself at the hearing was freely exercised after being advised of his rights to representation. It clearly cannot be resorted to on appeal as a basis for reversal of the Examiner's findings. The other matter raised on appeal is of a blanket nature without any supporting reasons. Thus, it is sufficient to state that, in my opinion, the Examiner's findings are supported by substantial evidence and his order should be affirmed. See *Attorney General's Manual on the Administrative Procedure Act* (1947) p. 84, note 5.

ORDER

The order of the Examiner dated at New York, N. Y., on 6 October 1966, is AFFIRMED.

W. J. SMITH  
Admiral, United States Coast Guard  
Commandant

Signed at Washington, D. C., this 5th day of October 1967.

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APPEALS

Lack of specificity of

\*\*\*\*\* END OF DECISION NO. 1663 \*\*\*\*\*

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