

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-943863-D3 AND  
ALL OTHER SEAMAN'S DOCUMENTS  
Issued to: Arturo ARBOLEDA

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1573

Arturo ARBOLEDA

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 18 February 1966, an Examiner of the United States Coast Guard at San Francisco, California, revoke Appellant's seaman's documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as a Chef's Utility board the United States SS MARIPOSA under authority of the document above described, on or about 26 April 1965, Appellant assaulted and battered with a dangerous weapon on John Scribner, a crewmember, and assaulted and battered with his hands on James Potts, a passenger, and one Loraine Alaimo, another crewmember, in the port of Papeete, Tahiti.

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

The Investigating Officer introduced in evidence the Official

Log Book of MARIPOSA and the testimony of Scribner and Alaimo.

In defense, Appellant offered in evidence the testimony of another crewmember and a copy of a sworn statement he had made to a U. S. consul.

At the end of the hearing, the Examiner rendered a decision in which he concluded that the charge and specification had been proved. The Examiner then entered an order revoking all documents issued to Appellant.

The entire decision was served on 24 February 1966. Notice of appeal was timely filed on 17 March 1966. No supporting brief or arguments had been filed.

#### *FINDINGS OF FACT*

On 26 April 1965, appellant was serving as a Chief's Utility on board the United States SS MARIPOSA and acting under authority of his document while the ship was in the port of Papeete, Tahiti.

Between 0130 and 2000 on that date, John Scribner, James Potts, and Loraine Alaimo arrived alongside the vessel in a taxicab. Scribner got out first.

Appellant ran from the crew's gangways to the cab and struck Scribner from behind on the head, with an object the size of a whiskey bottle. Scribner fell unconscious.

When Potts emerged to remonstrate, Appellant struck him in the face, cutting him. Appellant then reached into the cab and tried to drag Loraine Alaimo out of it, scratching her arm slightly in the process.

#### *BASES OF APPEAL*

This appeal has been taken from the order imposed by the Examiner. No grounds for appeal are urged.

APPEARANCES: At the hearing: Werchick, Kiriakia and Sullivan,

San Francisco, California by Robert N. Finnie,  
Marine Consultant.

On Appeal: George T. Davis, San Francisco,  
Calif., by Robert C. Mires, Esq.

*OPINION*

I

The evidence is sufficient to support the findings.

Three separate assaults and batteries, one with a dangerous weapon and one upon a passenger, call for the revocation which was ordered. Also, Appellant's prior record, embracing four actions under R.S. 4450 since February 1962, three of which dealt with physical violence, requires nothing less.

II

The single specification in this case alleged three distinct offenses of assault and battery upon three different persons.

The error is not reversible, but such faults should be avoided by proper drafting.

*ORDER*

The order of the Examiner dated at San Francisco, California, on 18 February 1966, is AFFIRMED.

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

Signed at Washington, D. C., this 26th day of July 1966.

INDEX (ARBOLEDA)

1. Charges and specifications  
errors in drafting to be avoided

multiple offenses in one specification

2. Prior record  
requiring revocation

3. Revocation  
held appropriate

\*\*\*\*\* END OF DECISION NO. 1573 \*\*\*\*\*

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[Top](#)