

In the Matter of Merchant Mariner's Document No. Z-366433-D2 and
All Other Seaman Documents
Issued to: Irvin Pittman

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1402

Irvin Pittman

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

By order dated 28 February 1963, an Examiner of the United States Coast Guard at Philadelphia, Pennsylvania revoked Appellant's seaman documents upon finding him guilty of the charge of "use of narcotics". The two specifications found proved allege that, on or about 30 January 1961 and on or about 20 December 1962, Appellant was a user of heroin, a narcotic drug.

The Investigating Officer introduced in evidence the testimony of two physicians. They testified that Appellant admitted having used heroin.

The only evidence in defense was the testimony of a third physician. He testified that Appellant admitted having used narcotics in the past, he was not an addict, he had no withdrawal symptoms. he was psychologically not the type to use narcotics in the future, and he had not used any for the month and a half he was under this physician's care. To this extent, the physician felt that Applicant had been "cured".

On appeal, it is urged that the Examiner improperly evaluated the testimony of the three physicians; the Examiner failed to distinguish between a user of narcotics and an addict; the failure of Appellant to use narcotics for six to eight weeks is satisfactory evidence of cure within the meaning of 46 U. S. Code 239b; and therefore, the order of revocation was improper.

APPEARANCE FOR APPELLANT: Nix and Nix of Philadelphia,
 Pennsylvania, by Robert N.C. Nix,
 Jr., Esquire, of Counsel.

OPINION

Judging from the testimony of three physicians, there is no doubt that Appellant used heroin at various times between January 1960 and December 1962, a period of almost three years. Based on this evidence, I agree with the Examiner that the absence of use of narcotics by Appellant between December 1962 and February 1963 is not "satisfactory evidence that he is cured", as required by 46 U.S. Code 239b to avoid the order of revocation, despite the additional favorable testimony by the physician who testified in Appellant's behalf. Consequently, it is my conclusion that the contentions raised on appeal have no merit particularly since the Examiner recognized the improbability that Appellant was an addict by stating, "It is doubtful if he could be termed an addict in a strict sense ---".

ORDER

The order of the Examiner dated at Philadelphia, Pennsylvania, on 28 February 1963, is AFFIRMED.

E.J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 8th day of July 1963.

***** END OF DECISION NO. 1402 *****

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