

In the Matter of Certificate of Service No. E-468173
Issued to: FERNANDO RODRIQUEZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

367

FERNANDO RODRIQUEZ

This appeal comes before me by virtue of Title 46 United States Code 239(g) and Title 46 Code of Federal Regulation 137.11-1.

On 7 April and 13 May, 1949, Appellant appeared before an Examiner of the United States Coast Guard at New York, New York on a charge of misconduct supported by a specification alleging that while Appellant was serving as a Passenger Room Steward on board the SS MORMACKITE under authority of Certificate of Service No. E-468173, he had in his possession, contrary to law (26 USC 2593), on or about 7 March, 1949, about nineteen cigarettes containing marijuana while the vessel was at Brooklyn, New York.

At the hearing, Appellant was fully informed as to the nature of the proceedings and the possible consequences. He voluntarily waived his right to representation by counsel and entered a plea of "guilty" to the specification and charge. At the conclusion of the hearing, the Examiner found the charge and specification proved by plea and entered an order revoking Appellant's Certificate of Service No. E-468173 and all other valid licenses or certificates which have been issued to him.

The appeal is simply a plea for clemency stating in effect that his possession of the marijuana in question was brought about by his desire to celebrate an alleged fortuitous event occurring upon his arrival in New York on 7 March.

FINDING OF FACT

On or about 7 March, 1949, Appellant was serving as a member of the crew of the SS MORMACKITE in the capacity of Passenger Room Steward under the authority of Certificate of Service No. E-468173 while the vessel was at Brooklyn, New York. On that date, Appellant was apprehended by Customs Agents upon the discovery that Appellant had about nineteen marijuana cigarettes in his possession. Appellant was arraigned before the United States Commissioner in the Eastern District of New York and released on bail.

Appellant knowingly purchased the marijuana cigarettes ashore in New York and smoked six of them prior to returning to his vessel on 7 March, 1949. Appellant testified that he has been smoking marijuana since 1940 with the exception of a few months, and also admitted having been convicted for smoking marijuana in 1944 and sentenced to a Federal penitentiary.

OPINION

The offense to which the Appellant pleaded guilty is a most serious one with reference to the prejudice to safety of ships and lives at sea. It has been previously stated that the offense of possession, use, sale or any association with narcotics cannot be tolerated among the men who sail on American merchant marine vessels by virtue of the documents, licenses or certificates of service issued to them by the United States Coast Guard.

Appellant having freely admitted using marijuana since 1940 with the exception of only a few months, there is reason to believe that he will continue to do so with consequent danger to other crew members, passengers and his vessel if allowed to sail under his certificate.

In the instant case, Appellant has pleaded guilty to the

offense and has presented nothing in his behalf beyond the explanation that he had been celebrating. This cannot be considered as a mitigating circumstance.

CONCLUSION AND ORDER

The order of the Examiner dated 13 May, 1949, should be, and it is, AFFIRMED.

J. F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 16th day of September, 1949.

***** END OF DECISION NO. 367 *****

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