

In the Matter of Merchant Mariner's Document No. Z-122276-D3
Issued to: JUNIUS V. FITZGERALD

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

509

JUNIUS V. FITZGERALD

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 7 May, 1951, an Examiner of the United States Coast Guard at Boston, Massachusetts, revoked Merchant Mariner's Document No. Z-122276-D3 issued to Junius V. Fitzgerald upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as messman on board the American SS JAMES A. DELANO under authority of the document above described, on or about 14 October, 1948, while said vessel was in the port of Ceuta, Spanish Morocco, he unlawfully had a quantity of marijuana in his possession.

At the hearing which was conducted at Portland, Maine, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant testified under oath in his own behalf. He stated that he had obtained a package of about three and a half ounces of marijuana from a peddler aboard the vessel in Spanish Morocco in exchange for one or two cartons of cigarettes, and that although he had intended to use it when he had nothing else to do at sea, the Master had confiscated it before Appellant had used any of it.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-1222276-D3 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that Appellant had never before used narcotics on any ship during his 23 years at sea; that he voluntarily turned over to the Master the three marijuana cigarettes he had purchased; and that he was convicted and placed on probation for two years for this offense. There is also an appeal for clemency and two letters attesting to Appellant's good character attached to the appeal.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 14 October, 1948, Appellant was serving as messman on board the American SS JAMES A. DELANO and acting under authority of his Merchant Mariner's Document No. Z-122276-D3 while said vessel was in the port of Ceuta, Spanish Morocco.

On this date, the Master of the ship entered Appellant's quarters and took away from him a quantity of either bulk marijuana or marijuana cigarettes. Appellant admitted having secured the marijuana for the purpose of using it.

Subsequently, Appellant was convicted on 5 November, 1948, in

the U. S. District Court for the Eastern District of Virginia. Appellant entered a plea of guilty to the crime of having violated Title 21 U.S.C. 184a and received a suspended sentence for the period of two years during which time he was put on probation.

There is no record of any prior disciplinary action having been taken against Appellant.

OPINION

The order of the Examiner must be sustained. The possession of any narcotics on shipboard is an extremely serious offense. Men under the influence of marijuana have been known to become temporarily insane to such a degree that they were unable to appreciate the difference between right and wrong. They have run amuck committing assaults and even murder. Such a condition cannot be tolerated on American Merchant Marine vessels.

ORDER

The order of the Examiner dated 7 May, 1951, should be, and it is *AFFIRMED*.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 24th day of July, 1951.

***** END OF DECISION NO. 509 *****

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