

In the Matter of Merchant Mariner's Document No. Z-518463-D1
Issued to: ALBERT PEREZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

646

ALBERT PEREZ

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 16 December, 1952, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-518463-D1 issued to Albert Perez upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as ordinary seaman on board the American SS LESLIE LYKES under authority of the document above described, on or about 15 December, 1952, while said vessel was in the port of New Orleans, Louisiana, he wrongfully had in his possession certain narcotics, to wit, marijuana.

At the hearing, 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. A plea of "not guilty" to the charge and specification was entered by the Examiner.

Thereupon, the Investigating Officer made an opening statement and introduced in evidence the testimony of a Customs Port Patrol Officer, and a Customs chemist. In defense, Appellant offered in evidence his own sworn testimony and that of three character witnesses.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification and entered the order revoking Appellant's Merchant Mariner's Document No. Z-518463-D1 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard.

From that order, this appeal has been taken, and it is urged:

1. The Examiner's Finding is inconsistent with the evidence presented;
2. Possession was not proved, as other persons had access to the shirt in which the marijuana was found; and
3. The order is unreasonable as it deprives Appellant of his livelihood - his sole occupation since 1945 which was honorable and "without flaw."

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

FINDINGS OF FACT

On 15 December, 1952, Appellant was serving as ordinary seaman on board the American SS LESLIE LYKES and acting under authority of his Merchant Mariner's Document No. Z-518463-D1.

In the course of a search, Customs officers at New Orleans, Louisiana, found fragments of marijuana in the pockets of a shirt admittedly owned and most recently worn by Appellant.

OPINION

The Examiner, who saw and heard Appellant testify in defense of this charge was not favorably impressed by his denial of guilt - and neither am I.

CONCLUSION AND ORDER

I find no good reason advanced on this appeal to justify my modification of the Examiner's Order dated New Orleans, Louisiana, on 16 December, 1952, which is AFFIRMED.

A. C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 3rd day of April, 1953.

***** END OF DECISION NO. 646 *****

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