

In the Matter of Merchant Mariner's Document No. Z-108021-D3
Issued to: ELMER ELSWORTH PRICE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ELMER ELSWORTH PRICE

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 13 January, 1953, an Examiner of the United States Coast Guard at New York City revoked Merchant Mariner's Document No. Z-108021-D3 issued to Elmer Elsworth Price upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as third cook on board the American SS FLYING ENTERPRISE II under authority of the document above described, on or about 14 August, 1952, while said vessel was in the port of Bremerhaven, Germany, he wrongfully had in his possession a narcotic substance; 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. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant made an unsworn statement. He stated that the guard at the gate found the narcotic in Appellant's possession because he got drunk and forgot about it when he left the Seaman's Club. Appellant also mentioned that he has been going to sea since 1937 and knew better than to try to get out of a gate with narcotics on his person because he was always searched by a guard.

At the conclusion of the hearing, having given both parties an opportunity to submit argument and proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea.

He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-108021-D3 and all other licenses, certificates of service and documents issued to this Appellant.

From that order, this appeal has been taken, and it is a plea for clemency based upon Appellant's good record and the manner in which he came into possession of the marijuana. Appellant claims that he accepted a small package from a man in the Seaman's Club in order to get rid of this man who had been following him. Appellant states that he put the package in his pocket, continued drinking beer, and forgot that he had not thrown the package away as planned until the guard found it while searching Appellant.

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

FINDINGS OF FACT

On 14 August, 1952, Appellant was serving as third cook on board the American SS FLYING ENTERPRISE II and acting under authority of his Merchant Mariner's Document No. Z-108021-D3 while the ship was at Bremerhaven, Germany.

While ashore on this date, Appellant obtained a package which contained a mixture of tobacco and three to five grams of marijuana, and which Appellant knew contained marijuana. He put it in his pocket some time before returning to the ship with the package still on his person. While passing through the gate after again leaving the vessel, Appellant was stopped by the guard and

searched. The mixture of marijuana and tobacco was found in a back pocket of Appellant's trousers.

On 15 August, 1952, Appellant was tried for this offense before the German Lower Court at Bremerhaven and convicted on his plea of guilty. His fine of 100 deutchmarks was paid by the Master of the ship and Appellant was released.

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

OPINION

In view of Appellant's plea of "guilty," there is no merit in the points raised on appeal despite his clear record for fifteen years at sea. Since narcotics offenses are most serious, the policy of revocation is strictly enforced by the Coast Guard in all such cases.

ORDER

The order of the Examiner dated at New York, New York, on 13 January, 1953, is AFFIRMED.

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

Dated at Washington, D. C., this 23rd day of April, 1953.

***** END OF DECISION NO. 658 *****

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