

In the Matter of Merchant Mariner's Document No. Z-567034
Issued to: CHARLES I. DANNE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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CHARLES I. DANNE

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 9 April, 1953, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-567034 issued to Charles I. Danne upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as messman on board the American SS ALCOA CORSAIR under authority of the document above described, on or about 9 April, 1953, while said vessel was in the port of New Orleans, Louisiana, he did wrongfully have in his possession a quantity of 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 the specification proffered against him.

Thereupon, the Investigating Officer made his opening statement.

At the conclusion of the hearing, having heard the argument of the Investigating Officer, Appellant having waived argument, and 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 plea. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-567034 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 the order is not commensurate with the offense in that it is not based on the special circumstances in the case but upon a matter of policy adopted by Coast Guard Examiners that in all cases of conviction for narcotic offenses "there is no alternative" to revocation. It is also urged that administrative clemency should be granted after some probationary period on the ground that the United States District Court for the Eastern District of Louisiana, the Honorable Herbert W. Christenberry, having heard the case on 13 May, 1953, adjudged the imposition of a suspended sentence with a two-year probationary period in lieu of commitment for that period and the ground that the circumstances as argued by the Investigating Officer warrant clemency.

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

FINDINGS OF FACT

On 9 April, 1953, Appellant was serving as messman on board the American SS ALCOA CORSAIR and acting under authority of his Merchant Mariner's Document No. Z-567034, and while the said vessel was in the port of New Orleans, he did wrongfully have in his possession a quantity of marijuana - which was discovered during a routine search by Customs authorities. Appellant admitted having purchased ten marijuana cigarettes while the ship was at Kingston, Jamaica.

OPINION

At the outset it should be made clear that the policy of revocation in all cases of conviction for narcotic offenses is not a policy adopted by Coast Guard Examiners but a clear and long standing policy of this office. Offenses involving the unlawful possession, use, or sale of narcotics are considered among the most pernicious arising within the administration of the Coast Guard. It is considered that no greater single threat to the safety of a vessel or its personnel exists than a person under the influence of narcotics and the Coast Guard will act protectively to remove such offenders. Nothing appears in this Record to alter that opinion. It is not material to the duty of the Coast Guard to extend every effort to protect property and the lives of American seamen that Appellant readily admitted the purchase and use of marijuana on board vessel. It is impossible to disregard the potential hazard that exists when a person know to use narcotics is permitted employment on shipboard.

Nor is it any reason to alter this long-established policy of revocation that a United States District Court saw fit to suspend sentence for a probationary period after conviction. The prosecution instituted in the United States District Court was of a criminal nature and governed by the Court's own policies as to sentencing first offenders. The proceeding by the Coast Guard against Appellant's Merchant Mariner's Document is conducted pursuant to 46 U.S.C. 239 and is an administrative action under a remedial statute. The statute itself provides for the referral of any evidence of criminal liability to the Department of Justice for action by that Department thus recognizing and providing for the separability of penal from remedial or administrative functions. The primary consideration in the administrative action is the duty of the Coast Guard to extend every effort to protect American seamen and property. That duty is not fulfilled by permitting persons who are known users of marijuana to sail as seamen in the American merchant marine.

CONCLUSION AND ORDER

The order of the Examiner dated 9 April, 1953, at New Orleans, Louisiana, should be, and it is, AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard

Commandant

Dated at Washington, D.C., this 2nd day of July, 1953.

***** END OF DECISION NO. 681 *****

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