

In the Matter of Merchant Mariner's Document No. Z-688144-D1
Issued to: JOSE SANTIAGO CRUZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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JOSE SANTIAGO CRUZ

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 20 April, 1953, an Examiner of the *United States Coast Guard* at San Francisco, California, revoked Merchant Mariner's Document No. Z-688144-D1 issued to *Jose Santiago Cruz* upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as assistant cook on board the American SS PRESIDENT ARTHUR under authority of the document above described, on or about 22 October, 1952, while said vessel was in the port of Wilmington, California, had in his possession a quantity of narcotics, to wit, marijuana and heroin, and he attempted to smuggle into the United States a quantity of heroin.

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. Appellant was represented by an attorney of his own selection. He entered a plea of "guilty" to the first specification and "not guilty" to the second specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the Judgment and Commitment of the United States District Court for the Southern District of California, Central Division, in the case of United States v. Jose Santiago Cruz, No. 22,552 Criminal, one count Indictment charging violation of 21 U.S.C. 174; an entry from Page 21 of the logbook of the SS PRESIDENT ARTHUR showing Jose Cruz, assistant cook taken into custody by U. S. Customs authorities on 22 October, 1952, and a U. S. Customs Laboratory analysis on Customs Form 6415.

In defense, Appellant's counsel made his opening statement and Appellant testified in his own behalf.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the first specification had been proved by plea and the second specification had been proved by proof of the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-688144-D1.

From that order, this appeal has been taken, and it is urged that the Order be mitigated because Appellant has never used heroin and the heroin found on his person was "planted" by someone.

APPEARANCES: Messrs. Gladstein, Andersen and Leonard, of San Francisco by Ruben Tepper, Esquire, of Counsel.

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

FINDINGS OF FACT

On 22 October, 1952, Appellant was serving as assistant cook on board the American SS PRESIDENT ARTHUR and acting under authority of his Merchant Mariner's Document No. Z-688144-D1.

On that date Appellant was found with heroin and marijuana in his possession and arrested by the U. S. Customs authorities.

On 30 March, 1953, Appellant was convicted in the United States District Court for the Southern District of California on an indictment charging violation of 21 U.S.C. 174 and alleging Appellant did "knowingly import and bring into the United States of America from Hong Kong, China, approximately 150 grains of heroin, contrary to law."

Appellant admitted to purchase and use of marijuana cigarettes during the voyage from Panama to Wilmington, California.

OPINION

The Coast Guard in the enforcement of a primary duty to protect American seamen and property has consistently refused to permit persons who are known to be users of marijuana to sail as seamen in the American merchant marine. 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 or indoctrinated into the pernicious habits common to users which create a potential hazard that is impossible to disregard.

CONCLUSION AND ORDER

That the Order of the Examiner dated 20 April, 1953, at San Francisco, California, 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. 685 *****

