

In the Matter of Merchant Mariner's Document No. Z-779716-D1  
Issued to: HORACE JACKSON

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

748

HORACE JACKSON

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 8 February, 1954, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-779716-D1 issued to Horace Jackson upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as a messman on board the American SS MARGARET LYKES under authority of the document above described, on or about 4 February, 1954, while said vessel was in the port of New Orleans, Louisiana, he wrongfully had a quantity of marijuana in his possession.

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 counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of three U. S. Customs employees.

In defense, Appellant offered in evidence his own sworn testimony. He stated that he did not know how the marijuana got in his trousers and suitcase; that no marijuana was found in his clothing during a search at San Pedro, California, about twelve days earlier; and that the only time he smoked marijuana was when he tried it in 1947.

At the conclusion of the hearing, having heard the argument of the Investigating Officer and 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. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-779716-D1 and all other licenses, certificates and documents issued to this Appellant.

From that order, this appeal has been taken. Appellant states that he has never been in trouble during his seven years at sea and he requests clemency since he has a wife and three children to support.

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

#### *FINDINGS OF FACT*

On 14 February, 1954, Appellant was serving as a messman on board the American SS MARGARET LYKES and acting under authority of his Merchant Mariner's Document No. Z-77916-D1 while the ship was in the port of New Orleans, Louisiana. On this date, a routine search of the ship was conducted by the U. S. Customs authorities.

Port Patrol Officer Nuccio searched Appellant's belongings and found some flakes, in a pair of trousers, which appeared to be marijuana. Three individual samples of vegetable matter were taken from two different pairs of Appellant's trousers and a suitcase

which belonged to him. The total weight of these three samples was approximately three grains. Analysis disclosed that each of the three samples contained marijuana.

*OPINION*

The only evidence presented in this case consists of fragments of marijuana gleaned from the pockets and a suitcase of the Appellant. While such fragments were established to be marijuana by chemical analysis, the total quantity was so minute as not to present a hazard per se. In my opinion, such evidence, standing alone, and without supporting facts or circumstances, is insufficient to sustain the charge in this case.

*ORDER*

The order of the Examiner dated at New Orleans, Louisiana, on 8 February, 1954, is VACATED, SET ASIDE and REVERSED.

A. C. Richmond  
Vice Admiral, United States Cost Guard  
Commandant

Dated at Washington, D. C., this 16th day of August, 1954.

\*\*\*\*\* END OF DECISION NO. 748 \*\*\*\*\*

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