

In the Matter of Merchant Mariner's Document No. Z-324321(R)  
Issued to: FLORENCIO A. SALMASAN

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

769

FLORENCIO A. SALMASAN

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.

By order dated 6 July, 1954, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-324321(R) issued to Florencio A. Salmasan upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as utility messman on board the American SS STEEL DESIGNER under authority of the document above described, on or about 19 May, 1954, while said vessel was in the Port of New York, 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 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 an extract from the Shipping Articles of the STEEL DESIGNER for a voyage including 19 May, 1954. The Investigating Officer also placed in evidence a certified copy of the original Indictment, the original Judgment and Commitment, and the original Order of Probation and Order of Resentence of Appellant in the District Court of the United States for the Eastern District of New York.

In defense, Appellant offered in evidence his own sworn testimony. He stated that he did not know about the marijuana which was found in a package in his pocket before he signed off the Shipping Articles for the voyage.

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-324321(R) and all other licenses, certificates 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 that Appellant was not responsible for the material which the Customs guard found in Appellant's possession; Appellant had no knowledge of the material in his possession; and Appellant believes that someone "planted" the substance in Appellant's pocket in order to get him off the ship.

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

#### *FINDINGS OF FACT*

On 19 May, 1954, Appellant was serving as utility messman on board the American SS STEEL DESIGNER and acting under authority of his Merchant Mariner's Document No. Z-324321(R) while the ship was in the Port of New York.

On this date, a U. S. Customs Port Patrol Officer apprehended Appellant with 181 grains of marijuana in his possession.

On 3 June, 1954, in the U. S. District Court for the Eastern District of New York, Appellant was represented by counsel and convicted on his plea of guilty to the offense of fraudulently and knowingly importing 181 grains of marijuana into the United States on 19 May, 1954. Appellant was sentenced to a period of two years imprisonment on one month probation and a fine of ten dollars.

*OPINION*

Appellant's contentions that he had no knowledge of the marijuana and that someone "planted" it in his pocket are of no avail. As stated by the Examiner, the judgment of conviction in the Federal court was *res judicata* of the issued therein and conclusive as to these proceedings since to "knowingly import" marijuana presupposed the knowing, and wrongful, possession of marijuana. See 46 C.F.R. 137.15-5(a).

In accordance with 46 C.F.R. 137.03-1, Examiner properly revoked Appellant's document because of the most serious nature of the offense committed.

*ORDER*

The Order of the Examiner dated at New York, New York, on 6 July, 1954, is AFFIRMED.

J. A. Hirshfreed  
Rear Admiral, U. S. Coast Guard  
Acting Commandant

Dated at Washington, D. C., 23rd day of September, 1954.

\*\*\*\*\* END OF DECISION NO. 769 \*\*\*\*\*

