

In the Matter of Merchant Mariner's Document No: Z-572663-D-2
Issued to: JESSIE GARCIA

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

474

JESSIE GARCIA

This appeal comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations Sec. 137.11-1.

On 24 August, 1950, an Examiner of the United States Coast Guard at Baltimore, Maryland, revoked Merchant Mariner's Document No. Z-572663-D-2 issued to Jessie Garcia upon finding him guilty of "misconduct" based upon one specification alleging in substance, that while serving as wiper on the American S. S. OREGON SWORD, under authority of the document above described, on or about 7 April, 1950 he wrongfully had in his possession certain narcotics, to wit 4.6 grains of marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. Although advised of his right to be represented by counsel of his own selection, he elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification.

Thereupon, the Investigating Officer advised the Examiner of the facts present in the case.

In defense, Appellant stated that he had served honorably in the Navy, and explained why he began and continued to use marijuana.

At the conclusion of the hearing, having heard the statements of the Investigating Officer and Appellant, the Examiner found the charge "proved" by plea and entered an order revoking Merchant Mariner's Document No. Z-572663-D-2 and all other valid licenses or certificates of service or Merchant Mariner's Documents held by Appellant.

From that order, this appeal has been taken, and it is urged:

- (a) Appellant's record with the Navy was unblemished;
- (b) Appellant's record in the Merchant Marine has been unblemished;
- (c) Appellant is not an addict to marijuana; and his use thereof was due to his ignorance of the harmful effects possible therefrom; and
- (d) That clemency should be granted to modify the Examiner's order.

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

FINDINGS OF FACT

Appellant, while serving as wiper on the American Merchant vessel, S.S. OREGON SWORD, under authority of his Merchant Mariner's Document No. Z-572663-D-2 on or about 7 April, 1950 wrongfully had in his possession certain narcotics, to wit, 4.6 grains of marijuana.

The Examiner has quite aptly stated his Opinion, which I adopt as my own:

"The Person Charged has by way of a plea for leniency stated that the possession of the marihuana was for his own use; that he is not engaged in any racket involving narcotics. He stated that the use of marihuana by him

came about through association with bad company. However, the presence on shipboard of a man who is in any way involved with narcotics is a dangerous and constant threat to the safety of the crew and ship, because of the possibility that at any time this potential danger might become an actuality.

"The Coast Guard clearly has the authority to exercise preventive measures by removing this potential danger rather than waiting until the damage has been done."

CONCLUSION

Each proposition presented by Appellant has been very carefully considered, but I find no reason to disturb the Examiner's Order dated Baltimore, Maryland, on 24 August, 1950, and said Order is AFFIRMED.

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

Dated at Washington, D.C., this 30th day of November, 1950.

***** END OF DECISION NO. 474 *****

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