

In the Matter of Merchant Mariner's Document No. Z-124249-D1
Issued to: JACK MORRIS RUIZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

524

Jack Morris Ruiz

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 30 July, 1951, an Examiner of the United States Coast Guard at Honolulu, T. H., revoked Merchant Mariner's Document No. Z-124249-D1 issued to Jack Morris Ruiz upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as messman on board the American SS PRESIDENT CLEVELAND under authority of the document above described, on or about 11 June, 1951, while said vessel was in the port of Honolulu, T.H., he wrongfully had in his possession a quantity of a narcotic drug; to wit, 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. 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 specification proffered against him.

Thereupon, the Investigating Officer and Appellant made their opening statements and Appellant introduced in evidence the testimony of the arresting officer which was not inconsistent with the plea of "guilty." Appellant stated that only two of the seven ounces of heroin, which a female passenger attempted to smuggle ashore, belonged to him.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-124249-D1 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 that the hearing was not fair since his shipmate Santiago Villanueva was involved in the same incident but his document was suspended for only one year on two years probation although the Examiner had stated that it was the policy to order revocation upon proof of narcotics violations; that it is unfair to deprive Appellant of his livelihood since he has no prior record during thirteen years at sea; and that Appellant's conviction and imprisonment is sufficient punishment.

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

FINDINGS OF FACT

On 11 June, 1951, Appellant was serving as messman on board the American SS PRESIDENT CLEVELAND and acting under authority of his Merchant Mariner's Document No. Z-124249-D1 while said ship was in the port of Honolulu, T.H.

On this date, Customs officials arrested a female passenger who was attempting to smuggle ashore seven ounces of heroin at Honolulu. The heroin had been put in her possession by Villanueva who had received some of it from Appellant for the purpose of illegally taking it ashore. Subsequently, Appellant was convicted in the United States District Court for the Territory of Hawaii upon a plea of "guilty" and sentenced to eighteen months' imprisonment.

OPINION

Appellant was appropriately informed when told that the policy of the Coast Guard is to order revocation of a seaman's documents when he has been found guilty of a charge involving narcotics. Although the facts in this record do not disclose that Villanueva received a lesser order than revocation, such a fact would not be any basis for Appellant's contention that he was not afforded all the elements of a fair hearing. There is no doubt that he was found guilty of the same type of offense for which numerous other seamen have had their documents revoked.

The reason for this policy is not to inflict punishment and hardship upon the individual seaman but rather to carry out the purpose of these remedial proceedings which is to protect property and seamen from danger. The presence of narcotics aboard American merchant vessels is a great potential danger because of the serious damage which often results from the use of narcotics. None of the reasons assigned on this appeal warrant my modification of the order entered.

ORDER

The order of the Examiner dated 30 July, 1951, should be, and it is, AFFIRMED.

A. C. Richmond

Rear Admiral, United States Coast Guard

Acting Commandant

Dated At Washington, D. C., this 11th day of October, 1951.

***** END OF DECISION NO. 524 *****

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