

In the Matter of Merchant Mariner's Document No. Z-430081
Issued to: LLOYD L. MILLER

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

542

LLOYD L. MILLER

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 10 September, 1951, an Examiner of the United States Coast Guard at Honolulu, T. H., revoked Merchant Mariner's Document No. Z-430081 issued to Lloyd L. Miller upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as able seaman on board the American SS CLYDE L. SEAVEY under authority of the document above described, on or about 17 August, 1951, while said vessel was at sea, he wrongfully had in his possession a quantity of narcotic drugs; to wit, marijuana. Appellant was tried jointly with two other seamen who were charged with similar specifications.

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 made his opening statement and the Customs Agent in Charge testified in mitigation in behalf of the persons charged. He stated that the three men had acquired the marijuana because of the easy access to it in India and out of curiosity due to the recent publicity in the United States about marijuana. He added that the men had not intended to smuggle it into the United States but to use it aboard ship; and that since these men are first offenders who are not likely to be repeaters, they should not be deprived of their livelihood at sea.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by plea. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-430081 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:

- (1) That Appellant is not an addict, a probable addict, a narcotics peddler or seller or probable peddler or seller;
- (2) That the offense which he committed was one of youthful indiscretion and curiosity aroused by the large amount of publicity given to the subject of marijuana users in the newspapers throughout the United States at about the time the offense was committed;
- (3) That Appellant had his curiosity satisfied after one attempt and that the minute quantity found in his locker substantiated his testimony that he smoked only one cigarette;
- (4) That the testimony of the narcotics enforcement officer made a sincere and earnest plea to the Examiner indicating that there was no danger of the Appellant becoming a user or peddler of narcotics;

- (5) That the Examiner either failed to take into account or deliberately refused to consider the recommendations of the Customs Agent;
- (6) That of the three men involved only one showed an indication of becoming addicted to the use of narcotics; and
- (7) That the finding and decision of the Examiner was arbitrary and does not conform to the evidence and testimony presented at the hearing.

There is also included and made a part of the appeal three affidavits by seamen who were aboard the SS CLYDE L. SEAVEY to the effect that Appellant is not addicted to the use of marijuana and that the occurrence was merely a lark on his part.

APPEARANCES:

Larry Landgraver, Esquire, of Portland, Oregon, of Counsel.

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

FINDINGS OF FACT

On 17 August, 1951, Appellant was serving as able seaman on board the American SS CLYDE L. SEAVEY and acting under authority of his Merchant Mariner's Document No. Z-430081 while the ship was at sea prior to entering the port of Honolulu.

On this date during a routine search of the vessel for contraband, a quantity of bulk or flaked marijuana (which is commonly referred to as hashish) was found in Appellant's quarters. Appellant admitted ownership and stated that he had purchased the substance from a native peddler aboard ship while in Calcutta, India, on 28 July, 1951.

OPINION

Regardless of the amount of marijuana or its effect upon the

individual possessing it, the presence of this narcotic aboard American merchant marine vessels is a constant threat to the safety of all those aboard as well as to the ship and her cargo. The possibility that someone other than Appellant might have smoked the marijuana with disastrous results is indicated by the Custom Agent's testimony that even after Appellant became ill from smoking the marijuana, he did not throw it over the side but attempted to dispose of his marijuana to other crew members. The significance of the great danger involved in such conduct is pointed out in "Marijuana, The New Dangerous Drug," by Frederick T. Merrill, published in 1950 by the Opium Research Committee of the Foreign Policy Association, as follows:

"Medical experts agree, however, on the complete unpredictability of the effect of marihuana on different individuals. A small dose taken by one subject may bring about intense intoxication, raving fits, criminal assaults. Another subject can consume large amounts without experiencing any reaction except stupefaction. It is this uncertain effect which makes marihuana one of the most dangerous drugs known. * * * no prediction can be made as to the effect of even one marihuana cigarette, for it has happened that even this small dose so violently upset one individual that he became a homicidal menace to society. It may thus be concluded that the narcotic principle in American cannabis (marihuana) is dangerously potent. * * * even in the earliest stages of marihuana intoxication the will power is destroyed and inhibitions and restraints are released. * * * during the later stages * * * intense over-excitement of the nerves and emotions leads to uncontrollable irritability and violent rages, which in most advanced forms cause assault and murder. * * * the subject may run amok, a terrible state of temporary insanity that has in recent years been the cause of several horrible murders in this country."

CONCLUSION

Hence, despite Appellant's innocent motive and the recommendations of the Customs Agent, I am not persuaded to give favorable consideration to Appellant's request that the order of

revocation be modified. Regardless of use or addiction, the mere possession of marijuana aboard ship is sufficient to sustain the order imposed.

ORDER

The order of the Examiner dated 10 September, 1951, should be, and it is, AFFIRMED.

A. C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 3rd day of January, 1952.

***** END OF DECISION NO. 542 *****

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