

In the Matter of Merchant Mariner's Document No. Z-595101
Issued to: FELIX ROSARIO

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

620

FELIX ROSARIO

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 2 October, 1952, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-595101 issued to Felix Rosario upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as messman on board the American SS EXCAMBION under authority of the document above described, on voyages from 14 February to about 17 September, 1952, he wrongfully (1) used narcotics (heroin) and (2) had narcotics in his possession on board said vessel.

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. Appellant was represented by an attorney of his own selection and entered a plea of "guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer and Appellant's counsel respectively informed the Examiner of the circumstances attending

the presentation of the charge and of facts looking to mitigation of the offenses charged.

At the conclusion of the hearing, having 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 plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-595101 and all other licenses, certificates of service and documents issued to this Appellant.

From that order, this appeal has been taken, and it is urged that leniency be extended because:

1. Appellant's domestic status and obligations require steady employment;
2. Appellant has an excellent record in the merchant marine;
3. Appellant is not an addict; and is no longer "curious" about drugs.

APPEARANCES: Frederick J. Miller of New York City for Appellant

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

FINDINGS OF FACT

On voyages from about 14 February, 1952, to about 17 September, 1952, Appellant was serving as messman on board the American SS EXCAMBION and acting under authority of his Merchant Mariner's Document No. Z-595101.

That during March, 1952, when the aforementioned vessel was at the port of Genoa, Italy, the person charged purchased a quantity of heroin in said port and took one packet of this narcotic aboard the vessel with him.

That during the period subsequent to taking this narcotic drug aboard the vessel, at intervals between said date and 17 September,

1952, Rosario used this narcotic by sniffing the same.

Appellant's record of service with the merchant marine has been unblemished.

OPINION

From my review of this Record, it is clear the Examiner has considered every fact favorable to Appellant; but has followed the policy of the Coast Guard so often announced in my opinions, respecting those who are associated with narcotics on shipboard.

Appellant's frankness concerning the incident is commendable, but cannot change the result.

It is most unfortunate that innocent persons may suffer from the misconduct of another. But my policy is designed to prevent, if possible, even greater suffering by many other innocent persons who may be affected because of the use of narcotics by merchant mariners.

ORDER

The Order of the Examiner dated at New York, New York, on 2 October, 1952, is AFFIRMED

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

Dated at Washington, D. C., this 28th day of November, 1952.

***** END OF DECISION NO. 620 *****

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