

In the Matter of Merchant Mariner's Document No. Z-745466
Issued to: GEORGE CLAYTON MOORE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

683

GEORGE CLAYTON MOORE

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 April, 1953, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-745466 issued to George Clayton Moore upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as a wiper on board the American SS EXPEDITOR under authority of the document above described, on or about 5 December, 1952, while said vessel was in the port of Haifa, Israel, he wrongfully had in his possession a package of hashish.

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 "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer and Appellant made their

opening statements. Since Appellant stated that he had no knowledge as to the contents of the package which was in his possession, the Examiner considered Appellant's explanation to be inconsistent with his plea of "guilty" and changed the plea to "not guilty."

The Investigating Officer introduced in evidence a certified copy of an entry in the Official Log Book of the EXPEDITOR, a consular report from the American Consulate at Haifa, and the receipt for court fines at Haifa which had been paid for Appellant by the ship's agent.

In defense, Appellant testified under oath in his own behalf. He stated that he found the package in question on the deck of the ship, placed it in his pocket, and forgot about it until he was searched after leaving the ship. Appellant further testified that he did not know what was in the package and that another member of the crew saw Appellant pick up the package from the deck.

The Examiner then adjourned the hearing to obtain the deposition of the other member of the crew to whom Appellant had referred in his testimony. The deposition was taken but it did not agree with Appellant's testimony on any material points. In fact, the deponent stated that he saw Appellant on 5 December, 1952, shortly after he had been arrested and heard Appellant say that he did not mean any harm and he was only using it himself. The deponent flatly denied having seen Appellant pick up a package on this date.

At the conclusion of the hearing, having given both parties an opportunity to present argument and 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-745466 and all other licenses and documents issued to this Appellant.

From that order, this appeal has been taken, and it is urged that Appellant has an otherwise clear record; he has no other means of employment; revocation of his document is severe because Appellant paid a fine at Haifa; and the deponent's testimony was not true.

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

FINDINGS OF FACT

On 5 December, 1952, Appellant was serving as a wiper on board the American SS EXPEDITOR and acting under authority of his Merchant Mariner's Document No. Z-745466 while the ship was in the port of Haifa, Israel.

When Appellant was going ashore on this date, he was apprehended by the local authorities and a package containing sixteen grams of hashish was found on his person.

On 12 December, 1952, Appellant was represented by an attorney when he was tried before the Haifa court on the charge of possession of hashish on 5 December, 1952. After his plea of guilty, Appellant was convicted and sentenced to pay a \$35 fine or serve 35 days. The fine was paid by the ship's agent and Appellant gave the agent a receipt for the money.

There is no record of prior disciplinary action having been taken against Appellant.

OPINION

There is little need to add to the sound decision of the Examiner. The prima facie case made out by the presumption that Appellant had knowledge as to the contents of the package which was proven to have been found on his person, was not overcome by Appellant's bare denial of knowledge since his denial was not accepted by the Examiner. The deposition corroborated the evidence introduced by the Investigating Officer and thereby strengthened the prima facie case.

Payment of the fine at Haifa did not serve the purpose of these remedial proceedings which are conducted to carry out the statutory duty of the Coast Guard to protect lives and property at sea. It is considered that this duty requires the imposition of the order of revocation against the documents of all seamen found

guilty of narcotics offenses of any type - and this is the strict policy of the Commandant which all Examiners shall follow. Personal hardship and a prior clear record do not prevent adherence to this policy.

ORDER

The Order of the Examiner dated at New York, New York, on 2 April, 1953, is AFFIRMED.

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

Dated at Washington, D.C., this 27th day of July, 1953.

***** END OF DECISION NO. 683 *****

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