

In the Matter of Merchant Mariner's Document No. Z-208287-D2
Issued to: JOSEPH C. BUSH

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

696

JOSEPH C. BUSH

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 1 June, 1953, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-208287-D2 issued to Joseph C. Bush upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as saloon messman on board the American SS BUCKEYE STATE under authority of the document above described, on or about 15 March, 1949, while said vessel was in the port of Yokosuka, Japan, he wrongfully had in his possession certain narcotics; to wit, two marijuana cigarettes.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled, the seriousness of the alleged offense, 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 made his opening statement and Appellant made a statement in mitigation. He stated that he had started to smoke marijuana in 1948 when he was upset by three deaths in his family including his mother; that, in the instant case, he smoked one of three marijuana cigarettes which he had obtained from a shipmate; and that his record is otherwise clear during ten years at sea.

Pursuant to Appellant's request, the Examiner read into the record a letter from Appellant's father which pertained to the contemplated purchase of property by Appellant.

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. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-208287-D2 and all other licenses, certificates and documents issued to this Appellant.

From that order, this appeal has been taken, and it is urged that Appellant's otherwise clear record and imprisonment for this offense should be taken into consideration; there is no indication that Appellant is a peddler of narcotics or an addict; the policy of revocation in narcotics cases was not mandatory in this particular case; Appellant should be given a chance to live a normal life and to follow his profession.

APPEARANCES: Jack W. Sprinkle, Esquire, of Mobile, Alabama, of Counsel.

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

FINDINGS OF FACT

On 15 March, 1949, Appellant was in the service of the American SS BUCKEYE STATE as a saloon messman and acting under authority of his Merchant Mariner's Document No. Z-208287-D2, when he was arrested ashore at Yokosuka, Japan, with two marijuana

cigarettes in his possession. Appellant knew that these two cigarettes contained marijuana. He was represented by counsel when he was later convicted before a Navy Provost Court for this offense after having entered a plea of guilty. Appellant served one year of the 18 months' sentence.

OPINION

The policy of revocation is mandatory after a seaman has been proven guilty of an offense which involves narcotics in any manner. Proof of use, addiction or trafficking is not necessary to invoke this policy; nor does imprisonment serve the purpose of these remedial administrative proceedings which is to protect lives and property at sea against the hazards of narcotics. Therefore, the Order of the Examiner must be sustained.

ORDER

The Order of the Examiner dated 1 June, 1953, at New York, New York, is AFFIRMED.

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

Dated at Washington, D. C., this 13th day of August, 1953.

***** END OF DECISION NO. 696 *****

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