

In the Matter of Certificate of Service No. E-64342
Issued to: ROBERT A. BRADFORD

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ROBERT A. BRADFORD

This appeal comes before me by virtue of Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

On 14 April, 1949, Appellant was tried before an Examiner of the United States Coast Guard at Seattle, Washington, on a charge of misconduct supported by a specification alleging that while Appellant was serving as a waiter on board the United States Army Transport DAVID C. SHANKS, under authority of Certificate of Service No. E-64342, he unlawfully sold and gave away five capsules of heroin (an opium derivative) weighing approximately six grains, on or about 15 November, 1948, without obtaining a written order on the proper form from the person to whom the narcotics were sold. This was a violation of Title 26 United States Code 2554(a).

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. He voluntarily waived his right to representation by counsel and changed his plea, to the specification and charge, to "guilty" after having originally pleaded "not guilty." The Examiner found the specification "proved by plea" and the charge "proved," then entered an order revoking the Appellant's Certificate of Service No. E-64342.

On appeal, Appellant requests that he be given a chance to prove that he can be an honest citizen. His bases for this request are a good army record, an unblemished ten years' service in the merchant marine and, particularly, the circumstances under which he came into possession of the heroin.

There is no indication in the record of any previous disciplinary action having been taken against the Appellant by the United States Coast Guard.

FINDINGS OF FACT

On or about 15 November, 1948, Appellant was serving as a member of the crew in the capacity of waiter on board the United States Army Transport under authority of Certificate of Service No. E-64342. At this time, Appellant obtained five capsules of heroin in Seattle and sold them to a friend. His friend had previously requested Appellant to get some narcotics for him to use.

Appellant did not receive a written order from his friend, to whom such narcotic drugs were sold, on a form issued in blank for that purpose by the Secretary of the Treasury as required by Title 26 United States Code 2554(a).

The above acts formed the basis of Appellant's indictment by the Grand Jury of the Northern Division of the United States District Court for the Western District of Washington. On 7 April, 1949, Appellant was convicted of this charge in the Federal court after having pleaded guilty to the offense.

The specification in these proceedings is also based on the above recited facts which formed the basis of the charge in the Federal Court.

OPINION

Appellant has urged that he feels his certificate should not be revoked because he is not a narcotic addict himself, he was on leave and not in a working capacity on the ship at this time (but admittedly he was a member of the vessel's crew, and therefore, acting under authority of his certificate), and he was a victim of circumstances in that he was caught as a result of doing a favor for a friend.

It has been repeatedly stated in my appeal opinions that the offenses of possession, use or sale of narcotics by merchant marine seamen are considered to be as serious a threat to the safety of ships and crews as any other offense within the administration of the Coast Guard and that such offenses are ones for which revocation of documents, licenses and certificates is demanded.

Appellant admitted that he was guilty of having possessed and sold the heroin. He also stated that he had become a narcotic addict in 1946 but had cured himself of the habit without the aid of any of the so-called "cures." Even assuming the truth of this, it remains that Appellant displayed himself to be potentially dangerous to the merchant marine service by possessing and selling narcotics. The proximity, and consequently, the danger, of this threat is enhanced by the fact that Appellant has ready access to supplies of narcotics within the continental limits of the United States. This means that, as long as Appellant is free to use his certificate, such narcotics might reasonably be expected to imperil lives and property.

For these reasons, the mitigating circumstances submitted by the Appellant cannot be given serious consideration and the result of this appeal must be to emphasize and reiterate the consistency with which this firmly established policy of revocation of seamen's documents, certificates and licenses will be followed, regardless of mitigating circumstances, in cases involving association with narcotics in any manner whatsoever.

CONCLUSION AND ORDER

The order of the Examiner dated 14 April, 1949, should be, and it is **AFFIRMED**.

J.F. FARLEY
Admiral United States Coast Guard
Commandant

Dated at Washington, D.C., this 7th day of July, 1949.