

In the Matter of Merchant Mariner's Document Z-432344-D1
Issued to: PRIMUS WAVERLY BANKS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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PRIMUS WAVERLY BANKS

This case comes before me in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

Appellant appeared before an Examiner of the United States Coast Guard at Philadelphia, Pennsylvania on 23 September, 1949, and entered a plea of guilty to a charge of "Misconduct" based upon one specification alleging that while serving as assistant cook, under authority of his duly issued Merchant Mariner's Document No. Z-432344-D1, on the American S.S. ANADARKO VICTORY, he did, on or about 25 February, 1948, have in his possession on board said vessel, a quantity of marijuana (approximately 3 ounces) contrary to law.

Full explanation was given Appellant respecting his rights and privileges in the proceeding at which he was present; he voluntarily waived his right to counsel and announced an intention to represent himself; he called no witnesses, but did testify in his own behalf to explain the circumstances under which the marijuana came into his possession, and offered two letters as exhibits to prove his good character.

At the conclusion of the hearing, the Examiner entered an order revoking Appellant's merchant mariner's document above identified, and all other valid documents which Appellant held.

From that order this appeal has been taken, and herein Appellant solicits administrative clemency because of hardships which may fall upon his dependents.

Based upon my careful examination of the record in this case, I make the following

FINDINGS OF FACT

On 25 February 1948, Appellant was serving under authority of his duly issued Merchant Mariner's Document No. Z-432344-D1 as assistant cook on board the American S.S. ANADARKO VICTORY, which vessel was then at a pier in Camden, New Jersey.

Appellant was apprehended by an employee of the Customs Service and found to have three ounces of marijuana in his trousers pocket. Appellant admitted knowledge of its nature, but explained that it came into his possession while he was acting for a "friend" in an attempt to deliver it to some other person - a crew-member on the same vessel.

This is the only adverse incident appearing in Appellant's record as a merchant seaman; although from his testimony it does appear that he has used marijuana on at least one other occasion - in 1946.

OPINION

It is fully appreciated that, in cases of this type, hardships will fall upon innocent persons who neither caused nor participated in the immediate offense. However, the time to realize that such consequences may result is before, not after, the event. If persons who willingly engage in an operation of this character would only understand that their arrest by the authorities appointed to control the importation and use of narcotics and drugs, will bring deprivation and sorrow to their innocent dependents as well as public censure upon themselves, the traffic in marijuana, drugs and other narcotics would be materially reduced.

CONCLUSION and ORDER

I find no reason to disturb the Order of the Examiner dated at Philadelphia, Pennsylvania on 26 September, 1949, and said Order is, therefore, AFFIRMED.

J. F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C. this 14th day of Nov, 1949.