

In the Matter of Merchant Mariner's Document No. Z-144621
Issued to: KROSON E. SMITH

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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KROSON E. SMITH

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 30 July, 1952, an Examiner of the United States Coast Guard at New York City, New York, revoked Merchant Mariner's Document No. Z-144621 issued to Kroson E. Smith upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as able seaman on board the American SS HUNTER VICTORY under authority of the document above described, on or about 4 August, 1951, while said vessel was in the port of Yokohama, Japan, he wrongfully had in his possession a narcotic substance, to wit: heroin

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 an attorney 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 a statement outlining the facts attending Appellant's apprehension by military police in Yokohama and the discovery of packages later determined to be heroin.

In defense, Appellant undertook to explain the circumstances of his acquisition of the heroin; and to justify his possession of narcotics.

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-144621 and all other licenses, certificates of service and documents issued to this Appellant.

From that Order, this appeal for clemency has been taken, and it is urged the judgment is too severe because:

- (1) Appellant is 43 years of age, and has worked

on vessels, in port and at sea, since 1926; it is the only trade he knows at which he can work and be a normally productive citizen;

- (2) In 1945, having served during the wartime emergency, he sat for and passed examinations as Third Mate; but was denied a license because of his past record which involved narcotics. On 1 April, 1952, he was issued a "validated" copy of his certificate because he has never belonged to a subversive organization.
- (3) He now realizes the seriousness of his misconduct, and will never offend again.

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

FINDINGS OF FACT

On 4 August, 1951, Appellant was serving as able seaman on board the American SS HUNTER VICTORY and acting under authority of his Merchant Mariner's Document No. Z-144621 when said vessel was in the Port of Yokohama, Japan. On that date, Appellant was ashore and then purchased five packets of heroin, a narcotic substance from a native.

When returning to his vessel, Appellant was searched by a military policeman and the heroin was discovered. As a result, Appellant was tried by a Special Army Court Martial, convicted of the wrongful possession of heroin and sentenced to six months confinement in the military stockade at Yokohama.

Appellant has an unenviable record of arrests and convictions for possession, sale and use of narcotics, both in the State and Federal Courts.

OPINION

The Examiner has very ably disposed of this case by his Findings and Opinion. I have nothing to add, beyond the specific concurrence in his opinion that "The case before me is a tragic one." It is particularly distressing when a man of intelligence and ability becomes involved with narcotics and drugs, and even though their use may not immediately present problems of safety, the fact that such an involvement exists does not justify the Coast Guard in speculating that Appellant will terminate his service in the merchant marine without some untoward incident occurring. I am not prepared to gamble on Appellant's future to that extent.

CONCLUSION

I have considered very carefully the application for clemency presented by Appellant, but find no reason to disturb the Examiner's order.

ORDER

The Order of the Examiner dated at New York, New York, on 30 July, 1952, is ~~RE~~^A~~FFIRMED~~.

Merlin O'Neill
Vice Admiral United States Coast Guard
Commandant

Dated at Washington, D. C., this 24th day of September, 1952.