

In the Matter of Merchant Mariner's Document No. Z-593008-D1
Issued to: MIGUEL MARTINEZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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MIGUEL MARTINEZ

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 29 September, 1952, an Examiner of the United States Coast Guard at New York City revoked Merchant Mariner's Document No. Z-593008-D1 issued to Miguel Martinez upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as bellboy on board the American SS EXCAMBION under authority of the document above described during a voyage from about 30 July, 1952, to about 17 September, 1952, he wrongfully possessed and used narcotics.

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 each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant testified under oath in his own behalf. Appellant admitted that he had smoked hashish on board the ship and stated that a "lot of people try that stuff and I went out and tried it."

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-593008-D1 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that since Appellant realized the seriousness of this offense and fully cooperated with the authorities by giving them the names of five seamen who used hashish aboard ship, a suspension for a period of six months should be sufficient.

APPEARANCES: Messrs. Fino and Page of New York City by Harold

A. Page, Esquire of Counsel.

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

FINDINGS OF FACT

On a voyage which included the date of 30 July, 1952, to 17 September, 1952, Appellant was serving as bellboy on board the American SS EXCAMBION and acting under authority of his Merchant Mariner's Document No. Z-593008-D1. Upon at least one occasion during this period of time, Appellant had an undetermined quantity of a narcotic substance, which is commonly known as marijuana in the United States, in his possession aboard the ship and he smoked some of this narcotic at least once while he was on board the ship. Appellant has no prior record.

OPINION

In view of Appellant's awareness of the significance of his plea of "guilty," there is no question of the sufficiency of evidence to prove the offense. He admitted possession and use of marijuana (known as hashish or bhang in India and some other places when it is smoked) on board the EXCAMBION.

The policy of revocation which is based upon the statutory duty of the Coast Guard will be followed despite Appellant's later cooperative spirit.

ORDER

The order of the Examiner dated at Portland, Oregon, on 29 September, 1952, is AFFIRMED.

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

Dated at Washington, D.C., this 17th day of February, 1953.