

In The Matter of Merchant Mariner's Document No. Z-348179
Issued to: LEON MONGER

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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LEON MONGER

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.

By order dated 14 September, 1953, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-348179 issued to Leon Monger upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as bedroom utilityman in the service of the American SS HIBUERAS and under authority of the document above described, on or about 1 September, 1953, while said vessel was in the port of Guayaquil, Ecuador, he wrongfully used marijuana while ashore (First Specification); and on or about 11 September, 1953, while said vessel was in the port of New Orleans, Louisiana, he wrongfully had a quantity of marijuana in his possession while he was on board the vessel (Second Specification).

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 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 First Specification proffered against him; and he entered a plea of "not guilty" to the Second Specification.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of three U. S. Customs employees in support of the Second Specification.

Appellant did not submit any evidence in his defense.

At the conclusion of the hearing, having heard the argument of the Investigating Officer and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings. The Examiner concluded that the charge had been proved by plea to the First Specification and by proof of the Second Specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-348179 and all other licenses, certificates 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 Appellant was persuaded to

use marijuana by one of his shipmates; Appellant consumed part of three marijuana cigarettes while ashore in Ecuador; Appellant did not intend to take marijuana aboard the ship for consumption or transportation to the United States; Appellant never used marijuana before; and fragments from the three marijuana cigarettes were found in Appellant's pockets.

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

FINDINGS OF FACT

On a foreign voyage including the dates of 1 through 11 September, 1953, Appellant was in the service of the American SS HIBUERAS as a bedroom utilityman and acting under authority of his Merchant Mariner's Document No. Z-348179.

On 1 September, 1953, Appellant obtained possession of three marijuana cigarettes while he was ashore at Guayaquil, Ecuador. Appellant smoked one of these cigarettes and returned to the ship after placing the other two cigarettes in one of the pockets of the brown trousers which he was wearing. While on board the ship, Appellant changed into a pair of blue trousers and transferred the two remaining marijuana cigarettes to the pocket or pockets of the blue trousers. Appellant then went ashore and smoked the two marijuana cigarettes in company with one or more other person.

When the ship arrived at New Orleans, Louisiana, on 11 September, 1953, a U. S. Customs Port Patrol Officer searched Appellant's belongings and found fragments, in the brown and blue trousers, of what appeared to be marijuana. Separate sweepings were taken from three pockets of the brown trousers and from two pockets of the blue trousers. Analysis disclosed that each of these five samples contained marijuana.

OPINION

Appellant has admitted that he smoked marijuana cigarettes and had them in his possession on board the ship on which he was serving. This is sufficient to uphold the order of revocation regardless of whether Appellant has used or possessed marijuana before or since the time when he had the three marijuana cigarettes. The danger to life and property which results from the presence of marijuana, or other narcotics, on shipboard is so great that the order of revocation must be imposed against the documents of all proven narcotics offenders. The fact that Appellant smoked the marijuana while ashore is not significant since Appellant was still in the service of the ship for the duration of the voyage.

In view of the plea of "guilty" to the First Specification, it is not necessary to discuss the Second Specification to which Appellant entered a plea of "not guilty."

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 14 September 1953, is **AFFIRMED**.

A. C. Richmond
Vice Admiral, U. S. Coast Guard
Commandant

Dated at Washington, D. C., this 29th day of July, 1954.