

In the Matter of Merchant Mariner's Document No. Z-863646(R)
Issued to: JOSEPH C. REVILL

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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JOSEPH C. REVILL

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 15 June, 1954, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Merchant Mariner's Document No. Z-863646(R) ISSUED TO Joseph C. Revill upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as an oiler on board the American SS DEL RIO under authority of the document above described, on or about 24 May, 1954, while said vessel was in the port of New Orleans, Louisiana, he wrongfully had a quantity of marijuana in his possession.

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. Appellant was represented by an attorney of his own selection and he entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer and counsel for Appellant made their opening statements and the Investigating Officer introduced in evidence the testimony of three U. S. Customs employees. A deposition by one of the members of the crew was stipulated in evidence.

In defense, Appellant offered in evidence the testimony of two witnesses in addition to his own sworn testimony. Appellant denied having any knowledge as to how the marijuana got in his clothing.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel and 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 proof of the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-863646(R) 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 the evidence indicates that it was perfectly plausible that

the marijuana was placed in Appellant's coat by one of the many Liberians who were on the ship and smoked marijuana; by a prostitute at Monrovia who rifled Appellant's pockets; or by another person who wore Appellant's coat without his knowledge.

APPEARANCES: Messrs. Le Blanc and Donaldson of New Orleans, Louisiana, by Milton L. Le Blanc, Jr., Esquire, of Counsel.

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

FINDINGS OF FACT

On 24 May, 1954, Appellant was serving as an oiler on board the American SS DEL RIO and acting under authority of his Merchant Mariner's Document No. Z-863646(R) while the ship was at New Orleans, Louisiana.

On this date, a routine search of the ship was conducted by the U. S. Customs authorities and fragments of marijuana were found in the right side pocket and left breast pocket of a brown coat which belonged to Appellant. The coat was in a suitcase under Appellant's bunk. No other evidence of marijuana was found on the ship. The presence of marijuana, in the two pockets of Appellant's coat, was established by chemical analysis; but there is no proof as to the amount of marijuana as distinguished from other extraneous matter which was included in the samples taken from the coat pockets.

OPINION

In view of the action to be taken in this case, it is not necessary to discuss the several contentions raised on appeal.

Although the particles of matter obtained from the coat pockets were proven to contain some quantity of marijuana, there is no showing in the record that the quantity found was sufficient to present a hazard per se to the safety of lives and property at sea. In my opinion, evidence of such a nature as is presented in this case is not sufficient, in itself, to sustain the charge of "wrongful possession" within the meaning of 46 C.F.R. 137.21-10. There must be some additional facts or circumstance to support the allegations.

ORDER

The Order of the Examiner dated at New Orleans, Louisiana, on 15 June, 1954 is VACATED, SET ASIDE and REVERSED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 8th day of September, 1954.