

In the Matter of Merchant Mariner's Document No. Z-116397-D2 and
all other Licenses, Certificates and Documents
Issued to: LESTER RAMOS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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LESTER RAMOS

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 20 January 1956, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-116397-D2 issued to Lester Ramos upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as messman on board the American SS MORMACMOON under authority of the document above described, on or about 15 September 1954, while said vessel was in the port of Santos, Brazil, he wrongfully had in his possession certain narcotics, to wit, marihuana, while he was on shore leave from the vessel.

At the hearing, after several adjournments, 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 counsel of his own choice. He entered a plea of "guilty" to the charge and specification preferred against him.

Thereupon, the Investigating Officer made his opening statement.

In mitigation and extenuation, Appellant offered a statement made in his behalf by counsel.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his decision and concluded that the charge and specification had been proved by plea. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-116397-D2 and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority.

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

FINDINGS OF FACT

On 15 September 1954, Appellant was serving as messman on board the American SS MORMACMOON and acting under authority of his Merchant Mariner's Document No. Z-116397-D2.

On that date, while ashore on leave in Santos, Brazil, Appellant purchased two marihuana cigarettes from a peddler. These were found on his person by local police. Appellant was tried and convicted of a violation of the Brazilian narcotics laws, subsequently serving one year in jail.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends:

- I that the Findings of Fact and Conclusions of Law are contrary to the evidence;
- II that the Findings and Conclusions are contrary to the weight of the evidence;
- III that the Findings and Conclusions are contrary to law;
- IV that the order of revocation is harsh and unreasonable.

Appellant cites eight reasons in support of the last point, including extenuating circumstances, prior punishment under Brazilian law, family hardship and misinterpretation by the Examiner of the policy set forth in 46 CFR 137.03-1.

APPEARANCES: Benjamin Glickman, Esquire, of New York City of Counsel.

OPINION

Appellant's first three contentions find no support in the record which shows plainly a plea of "guilty" and a specific admission of the ultimate facts.

The reasons cited by Appellant in support of the fourth point are unavailing because the Examiner's interpretation of 46 CFR 137.03-1, as being mandatory in the requiring of an order of revocation after a finding of misconduct by reason of possession of narcotics, is correct. The policy as stated in the regulation is based upon the consideration that safety at sea outweighs the offender's personal hardship and feelings, and requires the order of revocation regardless of other punishment.

ORDER

The Order of the Examiner dated at New York, New York, on 20
January 1956, is

AFFIRMED.

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

Dated at Washington, D.C. 10th day of May, 1956.