

In the Matter of Merchant Mariner's Document No. Z-687982-D1 and all other Seaman Documents

Issued to: GEORGE T. COLLINS

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1018

GEORGE T. COLLINS

This appeal has been taken in accordance with Title 46 United States Code 239b (P.L. 500, 83d Cong.) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 3 September 1957, an Examiner of the United States Coast Guard at New York, New York revoked Appellant's documents upon finding him guilty of the charge of "conviction of a narcotic drug law violation." The specification alleges that, on or about 5 August 1957, Appellant was convicted by the United States District Court for the Eastern District of New York, a court of record, for violation of 18 U.S.C. 1407, a narcotic drug law of the United States.

At the hearing, Appellant was represented by counsel and entered a plea of guilty to the charge and specification. The Investigating Officer introduced documents showing that Appellant was convicted as alleged. Appellant testified under oath in his defense. The Examiner concluded that the charge and specification had been proved by plea. An order was entered revoking all documents issued to Appellant.

The decision was served on 3 September 1957. Appeal was timely filed on 10 September 1957.

FINDINGS OF FACT

On 5 August 1957, Appellant was represented by counsel when he was convicted on his plea of guilty before the United States District Court for the Eastern District of New York for violation of 18 U.S.C. 1407, by failing to register a 1939 narcotics conviction, upon entering the United States at Brooklyn, New York on or about 20 June 1957. Imposition of sentence was suspended and Appellant was placed on probation for six months. The 1939 conviction was for possession of heroin in violation of a narcotic law of the State of New York.

Appellant has been going to sea for 12 years without any prior record with the Coast Guard. The 1939 conviction was disclosed to the Coast Guard in February 1957 when Appellant applied for and obtained an able seaman endorsement on his document. No action was taken in connection with the 1939 conviction at that time.

## BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant requests clemency on the grounds of his prior clear record, the authorization by the Coast Guard of his able seaman endorsement in February 1957 and the fact that Appellant did not know of the requirement under 18 U.S.C. 1407 to register his 1939 conviction.

Appearance: Murray Cutler, Esquire, of Brooklyn, New York, of Counsel

## OPINION

The action taken against Appellant's document is based solely on his conviction by a court of record for violation of 18 U.S.C. 1407 which is a narcotic drug law of the United States. This statute appears in the United States Code under Chapter 68 titled "Narcotics". The court conviction is not subject to collateral attack in this proceeding under 46 U.S.C. 239a-b, and an order of revocation is the only order which may be entered after a seaman has been found guilty of the charge. Therefore, Appellant's contention that he did not have a actual knowledge of the requirement of 18 U.S.C. 1407 to register the 1939 conviction is of no avail herein. There is no basis for reconsideration of the order of revocation as long as the conviction for violation of 18 U.S.C. 1407 is outstanding. See Commandant's Appeal No. 932.

The Coast Guard did not have any authority to take disciplinary action under 46 U.S.C. 239a-b against Appellant's document in February 1957, when he applied for an endorsement as able seaman, as a result of the disclosed 1939 narcotic conviction. This is so because 46 U.S.C. 239a-b is limited to narcotic convictions after 15 July 1954 when the statute became effective.

Although the order of revocation must be upheld, clemency will be granted to the extent that Appellant may make application to the Commandant (MVP) for a new document at this time without waiting for the usual three-year period after revocation to pass. There is no assurance that the action taken on such an application will be favorable to Appellant.

## ORDER

The order of the Examiner dated at New York, New York, on 3 September 1957 is AFFIRMED.

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

Dated at Washington, D. C., this 10th day of April, 1958