

In the Matter of Merchant Mariner's Document No. Z-860483-D1 and  
all other Seaman Documents

Issued to: THOMAS WILLIAMS

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1074

THOMAS WILLIAMS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 24 February 1958, an Examiner of the United States Coast Guard at New York, New York, revoked Appellant's seaman documents upon finding him guilty of misconduct. The specification alleges that while serving as a bellboy on board the United States SS CONSTITUTION under authority of the document above described, on or about 1 December 1957, Appellant was wrongfully under the influence of narcotics.

At the beginning of 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 choice, Appellant elected to waive that right and act as his own counsel. He entered a plea of not guilty to the charge specification.

The Investigating Officer and Appellant made their opening statements. The Investigating Officer then introduced in evidence several documentary exhibits as well as the testimony of three witnesses - the Staff Captain and two medical doctors on the CONSTITUTION for the voyage in question.

In defense, Appellant offered in evidence his sworn testimony and a Public Health Service "fit for duty" slip dated 13 December 1957. Appellant testified that he had never knowingly used narcotics; he had 3 or 4 drinks of whisky on the morning of 1 December but had not eaten anything except toast; Appellant was dancing for the entertainment of several crew members when the Staff Captain approached and took Appellant to the ship's hospital for an examination; the doctor took Appellant off duty after examining him at 0920; Appellant was sent back to work when he was re-examined by the doctor at 1600.

At the conclusion of the hearing, the oral arguments of the Investigating Officer and Appellant were heard and both parties were given an opportunity to submit proposed findings and conclusions. The Examiner then rendered the decision in which he concluded that the charge and specification had been proved. An order was entered revoking all documents issued to Appellant.

The decision was mailed to Appellant and receipted for by Lucille Williams on 26 February 1958. Notice of appeal dated 28 March 1958 was filed by counsel for Appellant.

#### FINDINGS OF FACT

On 1 December 1957, Appellant was serving as a bellboy on board the United States SS CONSTITUTION and acting under authority of his Merchant Mariner's Document No. 860483-D1 while the ship was in the port of Genoa, Italy.

About 0900 on this date, the Staff Captain was informed that Appellant was acting peculiarly in the crew's recreation room. The Staff Captain went to investigate and found Appellant performing a strange dance in a crouched position, making incoherent sounds and otherwise behaving in a very abnormal manner in the presence of other crew members. Appellant was taken, without resistance, to the crew hospital where he was given a thorough medical examination, at 0920, by the ship's Chief Surgeon who recorded the following symptoms:

Over excitability and hypertension  
Disorientation (talking incoherently)  
Tachycardia (very rapid heartbeat)  
Skin cool and dry  
Excessive thirst  
Eye pupils very miotic (contracted)  
Eye response to light extremely weak  
Tendon reflexes diminished  
Scarring along course of left forearm vein.

When questioned by the chief Surgeon, Appellant denied that his condition was caused by the use of narcotics or any other substance. A blood analysis for narcotics could not be made because the necessary equipment was not on board the ship. The Chief Surgeon concluded that Appellant was unfit for duty and he was relieved pending a re-examination at 1600 on the same day. The Chief Surgeon told the Staff Captain that Appellant's condition could have been caused by a "number of things." At 1600, the Chief Surgeon determined that Appellant was fit and he was returned to duty status.

Appellant's prior disciplinary record consists of a probationary suspension in 1952.

#### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that the findings of the Examiner are against the weight of the evidence and the order is too severe under the circumstances.

APPEARANCE ON APPEAL: Klein, Sardaro and Nolan of New York City.

#### OPINION

This appeal is based solely on the two contentions above which are general in nature. Appellant has not specified in what respect he feels that the ultimate finding of the Examiner, that Appellant was wrongfully under the influence of narcotics, is not supported by the evidence in the record.

The Chief Surgeon testified, at the hearing, that he would not make a definite diagnosis that Appellant was under the influence of narcotics on 1 December 1957. A positive conclusion about this, one way or the other, could not be made because of the absence of equipment on board to make an analysis of Appellant's blood. Such a test would have conclusively decided the issue. Nevertheless, the Chief Surgeon indicated by his testimony that he felt, on the basis of the symptoms disclosed by the medical examination, that Appellant's condition was caused by the use of narcotics. Considering this and the weakness of Appellant's testimony, I agree with the Examiner's opinion that the most probable of several reasonable inferences is that Appellant was under the influence of narcotics. This meets the test of substantial evidence. Commandant's Appeal No. 742

The Chief Surgeon testified that Appellant's condition was produced by some substance causing overexcitability; this symptom might result from the use of a number of substances; but, as a general rule, only narcotic would cause the additional symptoms of contraction of the eye pupils, diminished reflexes and weak eye response to light. This physician also stated that Appellant's symptoms were similar to those of known narcotic addicts who had been observed by the Chief Surgeon during his medical career.

The scarring on Appellant's left forearm is another indication that Appellant is probably not a stranger to the use of narcotics. Although there were no fresh marks on Appellant indicating a recent injection of narcotics, the same effect can be obtained, after a longer length of time, by oral consumption of narcotics. In

addition to these factors, the testimony of the other doctor shows that Appellant's eye symptoms (contracted pupil and weak reaction to light) were the same as those of another seaman on the ship who admitted that he had used narcotic within 24 hours prior to his examination.

Appellant's testimony does nothing to help his cause. He denied ever having used narcotics but did not give any reasonable explanation for his condition. He simply stated that he was taken off duty because of the fast heartbeat caused by his dancing which was appreciated by some members of the crew. Undoubtedly, this would not have caused the Chief Surgeon to declare that Appellant was unfit for duty.

Under these circumstances, I feel that the only probable conclusion to be drawn from the evidence is that Appellant was knowingly under the influence of narcotics. The order of revocation is the only suitable one for offenses involving narcotics.

ORDER

The order of the Examiner dated at New York, New York, on 24 February 1958, is AFFIRMED.

A. C. Richmond

Dated at Washington, D. C., this day of, 1958.