

In the Matter of Merchant Mariner's Document No. Z-118657-D1 and all other Documents

Issued to: JOHN R. WEAVER

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1085

JOHN R. WEAVER

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 7 July 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 utilityman on board the United States SS AFRICAN MOON under authority of the document above described, on or about 21 April 1958, Appellant wrongfully had in his possession a certain narcotic drug, to wit: marijuana.

The specification was found proved on the basis of Appellant's conviction, by the Superior Court of the Commonwealth of Massachusetts for the County of Suffolk, for the same offense. The only issue presented on appeal is the contention that the facts are not true. In view of the coincidence of the facts underlying the conviction with the allegations in the specification and the refusal by the Examiner to accept the denial by Appellant that he had knowledge of the presence of the marijuana in his clothing, this contention must be rejected and the order of revocation will be affirmed.

The findings, conclusions and reasoning of the Examiner, wherein he refers to Commandant's Appeal Decision No. 806, are incorporated herein by reference as part of this decision. The Examiner correctly commented, as a collateral matter, that in proceedings under R. S. 4450, as amended (46 U.S.C. 239), it is not necessary for a State conviction to be rendered by a court of record in order to make a prima facie case. See 46 CFR 137.15-5(b). In summary, a court conviction constitutes the required valid contributory evidence (supporting facts or circumstances) to prove knowledge of possession even though the amount of marijuana is so minute that it is not usable as a hazard per se and, therefore, it is not considered to be sufficient in itself to prove knowledge of possession. In the instant case, there is no evidence as to the amount of marijuana in Appellant's

possession.

ORDER

The order of the Examiner dated at New York, New York, on 7
July 1958, is AFFIRMED.

J. A. Hirshfreed
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 20th day of January, 1959.