

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-768570-D3
AND ALL OTHER SEAMAN DOCUMENTS
Issued to: WILLIAM H. GOBERT

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1619

WILLIAM H. GOBERT

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 27 September 1966, an Examiner of the United States Coast Guard at San Diego, California revoked Appellant's seaman's documents upon finding him guilty of misconduct. The specifications found proved allege that while serving as an able seaman on board the United States SS FLYING TRADER under authority of the document above described, Appellant used abusive language to the Master, and disobeyed a lawful order of the Chief Mate; and while serving as above on board the SS KENNETH MCKAY had narcotic drugs in his possession.

At the hearing, Appellant was represented by counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence excerpts from the logbooks of the vessels and other relevant documents, and the testimony of the Master and Chief Mate of the SS FLYING TRADER.

In defense, Appellant offered in evidence his own testimony.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and before-mentioned specifications had been proved. The Examiner then served a written order on Appellant revoking all documents issued to him.

The entire written decision and order was served on 28 September 1966. Appeal was timely filed.

FINDINGS OF FACT

From 8 June to 11 September 1966, Appellant was serving as an able seaman on board the United States SS FLYING TRADER and acting under authority of his document while the ship was on a foreign

voyage.

On 13 July 1966, the Chief Mate observed Appellant on the fantail conversing with the boatswain. Since it was after the commencement of the working day, the Chief Mate approached Appellant and told him to turn to. Appellant ignored this order, so it was repeated. Then repeated again. Appellant refused to obey the order, and was sent below.

On 30 July 1966, while the vessel was in a South Vietnam port, Appellant came back to the vessel from a drinking session ashore to change his shirt. Returning from his room to the gangway, Appellant saw the launch which brought him to the vessel leave without him. He saw the Master and Chief Mate on the bridge, and apparently thought they had ordered the launch to leave. Appellant then shouted at the Master, using profane and abusive language.

From 30 March 1965 to 21 June 1965, Appellant was serving as an able seaman on board the SS KENNETH McKAY and acting under authority of his document while the ship was on a voyage to South Africa.

On 21 June 1965, while the SS KENNETH McKAY was in the port of Durban, South Africa, the Master of the vessel, upon good cause, searched Appellant's locker and found a number of Dagga cigarettes. When Appellant returned from shore leave he was searched and bits of Dagga were discovered in his pockets. Appellant first denied knowledge of the cigarettes, then admitted to the local police that he obtained them from a taxi driver in Durban. Appellant was tried and convicted in a local Durban court for possession of a narcotic drug: to wit, Dagga. He was sentenced to be fined, or to spend 60 days in prison. Appellant did not have enough money, so he spent some time in the local jail.

Dagga is a substance similar to marijuana and as such is considered a narcotic drug.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. No specific grounds have been stated.

OPINION

Appellant conceded that he used the foul language alleged, but stated he was upset and immediately regretted his outburst. There is no doubt, however, that such language was profane and abusive, and the Examiner correctly found the charge proved.

The disobedience specification comes down to a question of credibility, as Appellant denied he failed to turn to on the date alleged. The Examiner accepted the version of the Chief Mate and such testimony constitutes substantial evidence of this count of misconduct.

The narcotics violation also presents a credibility issue. At the hearing Appellant claimed someone else must have placed the Dagga cigarettes in his locker. On the other hand, a certified copy of the court order, and an excerpt from the official logbook of the SS KENNETH McKAY, indicate that Appellant had admitted purchasing the drug from a local taxi driver. The Examiner refused to accept Appellant's protestations of innocence. Since he heard and saw the witnesses, his decision on credibility in this case will be considered final.

Appellant has a substantial prior disciplinary record, and the misconduct proved here, particularly the narcotics offense, is considered quite serious. The order of revocation is found correct and is affirmed.

ORDER

The order of the Examiner dated at San Diego, California on 27 September 1966, is AFFIRMED.

P.E. TRIMBLE
Vice Admiral, U.S. Coast Guard
Acting Commandant

Signed at Washington, D.C., this 18th day of May 1967.

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