

In the Matter of Merchant Mariner's Document No. Z-68313  
Issued to: EVELIO RODRIQUEZ

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

433

EVELIO RODRIQUEZ

This appeal comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations Sec. 137.11-1.

On 17 February 1950, an Examiner of the United States Coast Guard at New York City revoked Merchant Mariner's Document No. Z-68313 issued to Evelio Rodriquez upon finding him guilty of "misconduct" based upon a specification alleging in substance, that while serving as utilityman on board the American S. S. AGWIMONTE, under authority of the document above described, on or about 23 January, 1950, he wrongfully had in his possession aboard said vessel a narcotic substance; to wit, marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings and the possible consequences. Although advised of his right to be represented by counsel of his own selection, he elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification.

Thereupon, the Investigating Officer made his opening statement which included a summary of the investigation made and

the service of the charge and specification upon Appellant.

In defense, Appellant stated that although he has smoked marijuana cigarettes before, he has never been in any trouble during more than fourteen years at sea.

At the conclusion of the hearing, having heard the statements of the Investigating Officer and Appellant, the Examiner found the charge "proved" by plea and entered an order revoking Appellant's Merchant Mariner's Document No. Z-68313 and all other valid certificates, licenses and documents issued to him by the United States Coast Guard or its predecessor authority.

This appeal is a plea for clemency based on Appellant's fourteen years at sea with a clear record and the fact that he is the sole support of his wife and five children. Appellant also states that he is not able to find work except as a seaman and he believes the order of revocation is too harsh.

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

#### *FINDINGS OF FACT*

On 23 January, 1950, Appellant was serving as utilityman on board the American S. S. AGWIMONTE, acting under authority of his Merchant Mariner's Document No. Z-68313, while the ship was docked at Pier 34, North River, New York.

On this date, a routine search by a Port Patrol Officer disclosed that Appellant had two marijuana cigarettes in his possession. Appellant had purchased six marijuana cigarettes at the port of Vera Cruz and smoked four of them prior to 23 January, 1950, while aboard the AGWIMONTE. He had also smoked marijuana on prior occasions since the war. The Federal authorities declined prosecution because of the small amount of marijuana involved - approximately seventeen grains.

Appellant is 49 years old and there is no record of any prior disciplinary action having been taken against him during his fourteen years at sea on American merchant vessels.

*OPINION*

The Examiner, in his opinion, has accurately stated the position of the Coast Guard with respect to any merchant seamen who possess, use, or are in any way associated with narcotics. This policy of revocation has been consistently followed, in such cases, because of the potential danger as well as the actual damage arising from the presence of narcotics aboard American merchant vessels. Although Appellant has caused no trouble while smoking marijuana aboard ship, it is quite possible that continued indulgence in this practice might lead to acts of violence on his part. In addition, his conduct would be a strong temptation to other members of the crew who might not react as favorably to the use of marijuana as Appellant apparently does.

Therefore, the order of revocation must be sustained because of the prior consideration to be given the safety of merchant seamen and the protection of ships engaged in a hazardous occupation. To unnecessarily multiply the dangers to lives and property at sea would be a violation of the Coast Guard's statutory duty to protect them. The hardship imposed upon Appellant and his family cannot be avoided in view of this important obligation.

*ORDER*

The Order of the Examiner dated 17 February, 1950, should be, and it is, AFFIRMED.

Merlin O'Neill  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 10th day of April, 1950.

\*\*\*\*\* END OF DECISION NO. 433 \*\*\*\*\*

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