

In the Matter of Merchant Mariner's Document No. Z-897714-D1
Issued to: MARIO OPIO

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

684

MARIO OPIO

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

On 20 April, 1953, an Examiner of the United States Coast Guard at New York, N. Y., revoked Merchant Mariner's Document No. Z-897714-D1 issued to Mario Opio upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as bellboy on board the American SS UNITED STATES under authority of the document above described, on or about 25 March, 1953, while said vessel was in the port of New York, N. Y., he did wrongfully have in his possession narcotics; to wit, marihuana.

At 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. Appellant was represented by counsel of his own choice and he entered a plea of "guilty" to the charge and the specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and counsel for Appellant submitted a statement in

mitigation.

At the conclusion of the hearing, having given both parties an opportunity to submit argument and proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-897714-D1 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that clemency be granted so that Appellant can support his family. It is suggested that a probationary order would be just as effective to teach Appellant a lesson and also sufficiently severe considering Appellant's capacity as bellboy.

APPEARANCES: The Reverend Drury Patchell of New York City, representing Appellant.

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

FINDINGS OF FACT

On 25 March, 1953, Appellant was serving as bellboy on board the American SS UNITED STATES and acting under authority of his Merchant Mariner's Document No. Z-897714-D1.

On that date, while the said vessel was in the Port of New York, Appellant was apprehended by Customs Guards with twenty-two marihuana cigarettes in his possession.

OPINION

Appellant, represented by an Episcopal minister, pleaded guilty and admitted he possessed and used marihuana. The record and statements made in Appellant's behalf support the plea.

Clemency is urged. However, it is a primary duty of the Coast

Guard to extend every effort to protect the lives of American seamen and property. It is a clear and long-standing policy of the Coast Guard, in the furtherance of that duty, not to allow known users of marihuana to sail as seamen in the American merchant marine.

Although Appellant's particular function did not directly affect the operation of the ship, he could have infected others who served in capacities directly affecting the operation of the ship. Or while under the influence he might create disturbances undermining authority or directly injuring others.

For these reasons, it is a consistent policy, in the interest of protecting the American merchant marine, not to permit a user of narcotics to sail.

CONCLUSION AND ORDER

That the Order of the Examiner dated 20 April, 1953, at New York, N. Y., should be, and it is AFFIRMED.

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

***** END OF DECISION NO. 684 *****

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