

In the Matter of Merchant Mariner's Document No. Z-580849
Issued to: OSCAR KNIGHTON, JR.

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

453

OSCAR KNIGHTON, JR.

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 18 April, 1950, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-580849 issued to Oscar Knighton, Jr., upon finding him guilty of "misconduct" based upon one specification alleging in substance, that while serving as Ordinary Seaman on the American S. S. EXMOUTH, under authority of the document above described, on or about 3 January, 1950, he wrongfully had in his possession a certain 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 fully advised of his right to be represented by counsel of his own selection, he voluntarily 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 reported the circumstances attending the discovery of the marijuana in a box bearing

Knighton's name, while Customs Officers were searching the EXMOUTH at Boston, Massachusetts, on 3 January, 1950.

In defense, Appellant testified under oath.

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 that Merchant Mariner's Document Z-580849, and all other documents, certificates and/or licenses issued to Oscar Knighton, Jr., he, and the same are revoked.

From that order, this appeal has been taken, and it is urged: The punishment is too severe in the light of his past record; his desire to return to sea; and his promise to abstain from participating in the narcotic trade.

APPEARANCES: Lewis E. Waters, Esq., of Brooklyn, N.Y. For
Appellant

Based upon my examination of the Record submitted, I hereby adopt as my own the Examiner's

FINDINGS OF FACT

"On and prior to 2 January, 1950 the person charged herein, Oscar Knighton, Jr. was serving as ordinary seaman under authority of his merchant mariners document aboard the SS EXMOUTH, a merchant vessel of the United States.

"On 2 January 1950 while the SS EXMOUTH was in the port of Boston, the first domestic port of return after a foreign voyage, she was searched by Customs and in a box containing curios belonging to the person charged, with his name upon it, there was found approximately one and a quarter pounds of marijuana upon which no tax had been paid and which was not part of the ship's cargo.

"The person charged, after entering a plea of guilty in the United States District Court for the District of Massachusetts to

the offense of wrong fully having marijuana in his possession in violation of the law, was sentenced to three months in the federal penitentiary; this sentence was reduced subsequently to thirty-eight days.

"The possession of the marijuana by the person charged was in all respects wrongful."

OPINION

Appellant's legal propositions are not well founded. And, he misconceives the purpose underlying this proceeding.

First, Appellant was not charged with "smuggling"; the charge was wrongful possession of marijuana. Title 46 United States Code 701(8) has no application.

Second, Appellant errs in applying principles governing the relationship of a seaman to his vessel (and vice versa) to the situation presented here. The Examiner aptly remarked on the statutory duty of the Coast Guard to "maintain and promote the safety of ships and lives at sea." Accordingly, the Coast Guard, (and the Secretary of Commerce, predecessor to the Coast Guard) has repeatedly announced that persons who participate in narcotics traffic, are undesirable as merchant seamen.

That announcement applies with striking force to this case, where admittedly Appellant acquired more than a pound of powdered marijuana at foreign ports which he intended to sell upon arrival in the United States. He gave little or no thought to the injurious consequences of such transactions, as long as he realized a satisfactory profit from his investment.

Unfortunately, Appellant's repentance comes too late. I have very carefully considered the brief submitted in his behalf; but find no reason to disturb the order of revocation entered in this case.

ORDER

The Order of the United States Coast Guard Examiner dated at New York, New York, on 18 April, 1950 is AFFIRMED.

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

Dated at Washington, D. C., this 2d day of August, 1950

***** END OF DECISION NO. 453 *****

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