

In the Matter of Merchant Mariner's Document No. Z-265100-D3  
Issued to: ESTEBAN GIL

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

497

ESTEBAN GIL

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 8 March, 1951, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-265100-D3 issued to Esteban Gil upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as ordinary seaman on board the American SS EXCHEQUER under authority of the document above described, on or about 18 November, 1948, while said vessel was in the port of Bombay, India, he wrongfully smoked marijuana while he was ashore.

At the commencement of the hearing, because Appellant appeared to have only a limited knowledge of the English language, the Examiner assigned an interpreter to translate the proceedings in English and Spanish. 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. Although advised of his right to be represented by an attorney of his own selection, Appellant 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 advised the Examiner of the facts in the case. In defense, Appellant explained the circumstances attending his use of the marijuana while ashore.

At the conclusion of the hearing, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-265100-D3 and all other valid licenses, certificates of service, documents, and endorsements issued to this Appellant by the United States Coast Guard.

From that order, this appeal has been taken, and it is urged:

1. Appellant was intoxicated while ashore;
2. This is Appellant's first offense in several years of service as a merchant seaman;
3. The order of the Examiner is too severe; and
4. Its enforcement will work a hardship on Appellant's wife and daughter.

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

#### *FINDINGS OF FACT*

On 18 November, 1948, Appellant was serving as ordinary seaman on board the American SS EXCHEQUER and acting under authority of his Merchant Mariner's Document No. Z-265100-D3.

The vessel, on that date, was in the port of Bombay, India, and Appellant went ashore where he joined some fellows who were drinking. At some time, while so engaged, he was asked to "try it" (marijuana), which he did - and thereafter "was out of my head," during which he "heard voices" for which no explanation could be offered.

Following his return to the vessel, Appellant was very ill and informed the Purser that he had smoked marijuana while ashore.

#### *OPINION*

It is my opinion Appellant was singularly fortunate that during the period when he was irresponsible due to the pernicious effects of marijuana he did not commit some act which would have had more serious consequences. Such incidents have happened in the past; and furnish some basis for my view that persons who indulge in the use of marijuana and other narcotics and drugs are undesirable as seamen in the American merchant marine.

That Appellant used marijuana while ashore does not detract from the fact that he was under an agreement with his vessel to conduct himself in a faithful and sober manner. His shoreside actions certainly affected him after he returned to the vessel.

I have sincere sympathy for innocent persons who may suffer in cases of this kind; however, a responsibility rests upon the Coast Guard to protect lives and property on shipboard, and that responsibility is not discharged if potentially irresponsible persons are permitted to sail on merchant vessels.

#### CONCLUSION

No sound reason has been presented which warrants my interference with the Examiner's order.

#### ORDER

The Order of the Coast Guard Examiner dated at New York, New York, on 8 March, 1951, should be, and it is AFFIRMED.

A. C. Richmond  
Rear Admiral, United States Coast Guard  
Acting Commandant

Dated at Washington, D. C., this 1st day of June, 1951.

\*\*\*\*\* END OF DECISION NO. 497 \*\*\*\*\*

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