

In the Matter of Merchant Mariner's Document No. Z-566345-D1
Issued to: CURLEY KERRY

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

540

CURLEY KERRY

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 September, 1951, an Examiner of the United States Coast Guard at Houston, Texas, revoked Merchant Mariner's Document No. Z-566345-D1 issued to Curley Kerry upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as second cook on board the American SS JAMES LYKES under authority of the document above described, on or about 19 August, 1951, while said vessel was in the port of London England, he did:

"First Specification: . . . while attempting to pass thru the British Custom's Gate, Surrey Commercial Docks, wrongfully have in your possession certain narcotics, to wit: Indian Hemp (Raw Opium).

"Second Specification: . . . pilfer said vessel's stores, to wit: one chicken, one pound of butter and 14 small packets of tea."

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. He was represented by a seaman of his own selection and entered a plea of "guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in aggravation of the offense the testimony of the Master and Chief Mate of the SS JAMES LYKES, a certified copy of the memorandum of Appellant's conviction in a Metropolitan Police District Magistrate's Court in London, and a certified copy of an extract from the Official Log Book of the JAMES LYKES.

At the conclusion of the hearing, having heard statements in mitigation by Appellant and his representative, 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-566345-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 the small quantity of Indian Hemp contained in one cigarette is not a sufficient ground upon which to deprive Appellant of his vocation as a seaman; that Appellant is not a narcotics addict and has not been in any trouble during his five years at sea; and that, therefore, the unjust order should be reversed or modified to a less severe punishment.

APPEARANCES: W. B. Irwin, Jr., Esquire, of Houston, Texas, of
Counsel

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

FINDINGS OF FACT

On 19 August, 1951, Appellant was serving as second cook on board the American SS JAMES LYKES and acting under authority of his Merchant Mariner's Document No. Z-566345-D1 while the vessel was

docked at London, England.

On this date, Appellant had left the ship and was attempting to pass through the Custom's Gate with a chicken, a pound of butter and fourteen small packages of tea in his possession. Appellant was detained by the police who then obtained confirmation from the Master and Chief Mate of the JAMES LYKES that the articles mentioned had been stolen from the ship's stores. A further search of Appellant's person disclosed a cigarette made of tobacco and Indian Hemp (raw opium) which Appellant attempted to swallow in order to prevent its discovery.

On 20 August, 1951, Appellant was tried, on the two charges of having Indian Hemp (raw opium) in his possession and stealing the ship's stores articles, in the Metropolitan Police District Magistrate's Court at Tower Bridge, London, and convicted upon a plea of guilty to the two counts. At this time, Appellant stated that he had purchased the cigarette while ashore the previous evening. He was fined a total of twenty-three pounds (\$64.40) for the two offenses.

OPINION

I see no merit in Appellant's plea for leniency upon which this appeal is based. Appellant admitted during the course of the hearing that he had bought the cigarette in question in order to smoke it even though it had been represented by the seller to contain Indian Hemp.

The policy of the Coast Guard has been to revoke the documents of seamen who are associated with narcotics in any manner, regardless of the quantity of the narcotic involved. There is no reason for deviating from this policy in the present case.

ORDER

The Order of the Examiner dated 20 September, 1951, should be, and it is, AFFIRMED.

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

Dated at Washington, D. C., this 26th day of December, 1951.

***** END OF DECISION NO. 540 *****

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