

In the Matter of Merchant Mariner's Document No. Z-1050985-D2 and  
all other Seaman Documents  
Issued to: ANDERSON D. GROSS

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

1446

ANDERSON D. GROSS

This appeal as been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.30-1.

By order dated 4 September 1963, an Examiner of the United States Coast Guard at Boston, Massachusetts revoked Appellant's seaman documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved alleges that, on 11 May 1961, Appellant was convicted, by the District Court of Chelsea, Massachusetts, a court of record, for unlawful possession of a narcotic drug, to wit: marijuana.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and specification.

The Investigating Officer introduced documentary evidence of the alleged offense which shows that Appellant entered a plea of not guilty before the court and witnesses testified at the trial. Appellant was found guilty and sentences to pay a fine of \$50.

Appellant testified that he innocently purchased the substance, which turned out to be marijuana, in Panama because his

supply of regular medicine for his asthma was low at the time; and he used the marijuana only once.

At the end of the hearing, the Examiner rendered an oral decision and immediately served Appellant with the written order of revocation which became effective on that date of 4 September. The entire decision was served on 30 September and the notice of appeal was filed prior to the required date of 4 October. No additional material in support of the appeal has been received since Appellant was furnished a copy of the hearing transcript on 22 November.

Appellant contends, on appeal, that the Examiner's decision is very unfair because Appellant never has used narcotics and he is appealing from the order of revocation to get back his life, heart and career.

#### *OPINION*

Title 46 U. S. Code 239b provides for revocation of a seaman's document based on proof of a narcotic drug law conviction (including marijuana by definition) by a court of record. According to Massachusetts General Laws, Chapter 218, Section 4, the District Court of Chelsea is a court of record.

The Examiner, as the trier of the facts, did not believe Appellant's testimony that he did not know the nature of the substance which was marijuana. The probability that the Examiner was correct in this respect is strongly supported by the fact that Appellant was convicted by the court on the basis of the evidence produced after Appellant had pleaded not guilty. But, as stated by the Examiner, the issue of credibility at the hearing is not material to the outcome since Appellant was convicted by the court and the revocation rests upon the fact of conviction alone.

#### *ORDER*

The order of the Examiner dated at Boston, Massachusetts, on 4 September 1963, is AFFIRMED.

E. J. Roland  
Admiral, United States Coast Guard

Commandant

Signed at Washington, D. C., this 19th day of February 1964.

\*\*\*\*\* END OF DECISION NO. 1446 \*\*\*\*\*

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