

UNITED STATES OF AMERICA  
UNITED STATES COAST GUARD vs.  
MERCHANT MARINER'S DOCUMENT  
Issued to: Renaldo Clark Z 1180672

DECISION OF THE COMMANDANT ON APPEAL  
UNITED STATES COAST GUARD

2207

Renaldo Clark

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 5.30-1.

By order dated 19 January 1979, an Administrative Law Judge of the United States Coast Guard at New York, New York, revoked Appellant's seaman's documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved alleged that while holder of the document above captioned, on or about 23 June 1969, Appellant was convicted by the Criminal Court of the City of New York, a court of record, for the possession of a dangerous drug, to wit: heroin.

The hearing was held at New York, New York on 4 January 1979.

At the hearing, Appellant elected to act as his own counsel and entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence three documents.

Appellant offered no evidence in defense.

After the hearing, the Administrative Law Judge rendered a written decision in which he concluded that the charge and specification had been proved. He then served a written order on Appellant revoking all documents issued to Appellant.

The entire decision was served on 29 January 1979. Appeal was timely filed on 28 February and perfected on the same day.

#### *FINDINGS OF FACT*

On 23 June 1969, Appellant was the holder of a Coast Guard issued Merchant Mariner's Document. On that date, he was convicted by the Criminal Court of the City of New York, a court of record, of a narcotic drug law violation, to wit: possession of heroin in violation of New York State Penal Law 220.05.

#### *BASES OF APPEAL*

This appeal has been taken from the order imposed by the Administrative Law Judge. It is urged that Appellant was not fully represented at the R.S. 4450 proceeding, and that additional favorable evidence was not brought out at that hearing.

APPEARANCE: Renaldo Clark, pro se.

#### *OPINION*

##### I

Appellant was accorded the full panoply of rights guaranteed to respondents in administrative hearings. He was advised by the Investigating Officer of his right to be represented by counsel. He was further advised by the Administrative Law Judge of his right to counsel on the record. Appellant elected to proceed in his own behalf in full knowledge of the right accorded him by law.

##### II

Appellant was accorded two opportunities to adduce information favorable to his case. The first, at the hearing, was fully

explained to him on the record. He elected not to present any evidence, preferring to rest on the Investigating Officer's case. The second, on appeal, was ignored as well, since Appellant submitted no brief on appeal. This appeal has been considered solely on the basis of the exceptions raised in Appellant's notice of appeal, although the exceptions did not comply strictly with 46 CFR 5.30-1(e).

In any event, the possibility of submitting favorable evidence in the face of the charge proved here seems remote. Favorable evidence in the form of mitigatory data might well be saved for an eventual Clemency Board, since present regulations allow no discretion in the penalty to be exacted in a case such as this.

#### CONCLUSION

In light of the foregoing, I find the revocation of Appellant's Merchant Mariner's Document, as ordered by the Administrative Law Judge, to be founded on substantial evidence of a reliable and probative character. No error of law or fact appears in the record.

#### ORDER

The order of the Administrative Law Judge dated at New York, New York, on 19 January 1979, is AFFIRMED.

J. B. HAYES  
Admiral, U. S. Coast Guard  
Commandant

Signed at Washington, D.C., this 19th day of May 1980.

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Counsel  
pro se appearance sufficient

Evidence

opportunity to present

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