

In the Matter of Certificates of Service No. C-149628 and No. E-429371
Issued to: ELVIDIO SOTO (Z-165115-D-1)

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

323

ELVIDIO SOTO

This case comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations 137.11-1.

On 15 February, 1949, an Examiner of the United States Coast Guard entered an order revoking Certificates of Service C-149628 and E-429371 held by Elvidio Soto, Z-165115-D-1, upon finding him guilty of the charge of misconduct supported by two specifications; the first alleging possession of marijuana, and the second alleging possession of heroin, contrary to law, while employed as a fireman-watertender aboard the SS UNION VICTORY on 20 June, 1947, in Hoboken, New Jersey.

Appellant, acting as his own counsel, pleaded "guilty" to the first specification of unlawfully possessing marijuana and pleaded "not guilty" to the second specification alleging possession of heroin, contrary to law. Appellant took the witness stand, on his own behalf, and voluntarily admitted that he had pleaded "guilty" to a bill of information which charged him with violating section 174 of Title 21, United States Code in that he fraudulently, knowingly, and unlawfully did receive, possess, conceal, and facilitate in the concealment, of 2 grains of heroin, after the same had been imported and brought into the United States, contrary

to law.

No other witnesses appeared for the Appellant. The Investigating Officer introduced into evidence, without objection, a certified copy of the Judgment and Commitment entered against the Appellant by the District Court of the United States for the District of New Jersey on 2 July, 1947. After receiving this evidence, the Examiner found the charge and both specifications "proved" and entered the order of revocation.

From that order, this appeal has been taken and it is contended that the order of revocation will militate against the Appellant and the Appellant's family because it will deprive him of his livelihood.

OPINION

The record in this case shows that the Appellant does not deny possession of either of the narcotics. On the other hand, he defends his violation of the laws of the United States on the ground that his physical condition requires their use to alleviate pain. The record further indicates that the Appellant is a long and confirmed user of narcotics, ashore and afloat. It is my firm conviction that persons addicted to the use of narcotics are undesirable seamen aboard vessels of the United States - not only for their own good, but, primarily, for the safety of the lives of their shipmates and the vessel property upon which they are employed.

I find nothing to warrant my intervening in this case.

CONCLUSION AND ORDER

It is ordered and directed that the decision and order of the Coast Guard Examiner dated 15 February, 1949, should be, and it is AFFIRMED.

J.F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 5th day of April, 1949.

***** END OF DECISION NO. 323 *****

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