

In the Matter of Certificate of Service No. E-538970
Issued to: ANTONIO SUAREZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

366

ANTONIO SUAREZ

This appeal comes before me in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

On 27 May, 1949, Appellant appeared before an Examiner of the United States Coast Guard at New York City to answer a charge of misconduct supported by a specification alleging that while Appellant was serving as utilityman on board the American SS ROBIN GOODFELLOW, under authority of Certificate of Service No. E-538970, he had in his possession contrary to law (26 U.S.C. 2593), on or about 8 May, 1949, a quantity of narcotics while the ship was at Boston, Massachusetts.

At the hearing, Appellant was fully informed as to the nature of the proceedings and the possible outcomes which might result. He voluntarily waived his right to representation by counsel and entered a plea of "guilty" to the specification and charge. At the conclusion of the hearing, the Examiner found the specification "proved by plea" and the charge "proved." He thereupon entered an order revoking Appellant's Certificate of Service No. E-538970 and all other valid licenses, certificates of service or documents which had been issued to Appellant.

The appeal is a plea for clemency based on the facts that Appellant has a wife and four small children to support and that he can do no other work than what he does on the ship. He also states that he was informed on good authority that marijuana is a very effective remedy for asthma and he uses it only to relieve his asthmatic condition.

There is no record of any previous disciplinary action having been taken against the Appellant in his sixteen years at sea.

FINDING OF FACT

On or about 8 May, 1949, Appellant was serving as a member of the crew in the capacity of utilityman on board the American SS ROBIN GOODFELLOW, under authority of Certificate of Service No. E-538970, while the ship was at Boston, Massachusetts. On this date, Appellant was apprehended by the United States Customs Port Patrol Officer while he was leaving the ship.

A search revealed the presence of approximately two ounces of marijuana on the Appellant's person at this time. He had no certificate, license, prescription or tax receipt permitting the possession of marijuana. Appellant was arraigned before the United States Commissioner at Boston and released on bail.

Appellant acquired the marijuana from a native at a South African port of call during the voyage which had just been completed about 8 May, 1949. He obtained the marijuana because he had been informed that it would be helpful for his asthma. Appellant did not use any of the marijuana during the voyage and he only takes about three or four puffs to secure relief when he gets asthmatic attacks. He has been using marijuana cigarettes, for this purpose, for about one year. Appellant testified that he has never used the marijuana while aboard any ship and that he had used it only twice during the past year. He claimed that ordinarily he got an attack of asthma every new moon; but, if he used marijuana, the attacks occurred less often and were not as severe.

OPINION

The Appellant has offered, as his excuse for possessing the marijuana, such circumstances as might well be given serious consideration in mitigating a similar order in connection with a different offense than that with which the present proceeding is concerned. But it has been repeatedly stated that the offenses of possession, use, sale or any association with narcotics are among the most pernicious arising within the administration of the Coast Guard and ones for which revocation is demanded.

It is reasonable to believe that Appellant will continue to carry marijuana in his possession to ward off the asthma attacks which periodically trouble him. Even assuming that his own use of marijuana will not eventually lead to his addiction to the drug, the mere presence of the marijuana on board ship is a constant threat to other members of the crew and a temptation to those who might not make use of it so discriminately as does Appellant. Undoubtedly, this is at least partially what the Examiner had in mind when he aptly stated:

"The possession of narcotics by merchant seamen * * * constitutes a potential, if not an actual menace to the cargo, the vessel and other crew members as well as himself. The possession of marijuana * * * is such a real danger that the only adequate disposition of the matter in the case of a seaman is the revocation of the certificate of service."

CONCLUSION

For these reasons, Appellant's plea for clemency on behalf of his large family cannot be considered as justification for moderating the Examiner's order since, to do so, would be to expose a much larger body of men to a much greater threat to their welfare than the insecurity placed upon Appellant's family as a result of this order of revocation.

ORDER

The order of the Examiner dated 27 May, 1949, should be, and it is AFFIRMED.

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

Dated at Washington, D. C., this 9th day of August, 1949.

***** END OF DECISION NO. 366 *****

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