

In the Matter of Merchant Mariner's Document No. Z-748865
Issued to: EUGENIO CRUZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

514

EUGENIO CRUZ

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 4 June, 1951, an Examiner of the United States Coast Guard at New York City revoked Merchant Mariner's Document No. Z-748865 issued to Eugenio Cruz upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as gloryhole steward on board the American SS SANTA ISABEL under authority of the document above described, on or about 27 December, 1949, while said vessel was in the port of New York, he wrongfully had approximately 10 ounces and 21 grains of marijuana in his possession.

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. Although advised of his right to be represented by an attorney of his own selection. Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant testified under oath in his own behalf stating that he had purchased the package of marijuana in Balboa to sell for profit in the United States.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, 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-748865 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 Appellant was the victim of accusations made by a fellow seaman; the marijuana was not found on his person; the Federal court conviction resulted from duress, inhuman treatment, and injuries received at the hands of the U. S. Customs officials; Appellant was warned that he would receive a severe punishment if he complained to the U. S. Attorney about his cruel and inhuman treatment; a plea of guilty was entered in the Federal court by Appellant's attorney who took advantage of Appellant's inability to speak English; and clemency should be granted because of Appellant's four dependents and his promise to keep his record clean in the future.

FINDINGS OF FACT

On 27 December, 1949, Appellant was serving as gloryhole steward on board the American SS SANTA ISABEL and acting under authority of his Merchant Mariner's Document No. Z-748865.

On this date, Appellant gave a package of marijuana to Pablo Falu, a fellow seaman. Falu was apprehended by Customs officials while attempting to leave the ship with the package in his possession. Subsequent analysis disclosed that the package contained 10 ounces and 21 grains of marijuana.

For this offense, Appellant was indicted in the U. S. District Court for the Southern District of New York. He was convicted on his plea of guilty and sentenced to six months' imprisonment.

OPINION

Appellant knowingly purchased a quantity of marijuana in a foreign port, and took it aboard an American ship. This fact he freely admitted. Therefore, the possession was "wrongful" and the possibility that Appellant was ignorant of the probable consequences of this act or the serious nature of the offense will not influence my decision. Merchant seamen are bound to recognize the inherent dangers of the presence of narcotics aboard ship and to scrupulously avoid any contact or association with such substances. Marijuana and other narcotics present a constant threat to the safety of lives and property at sea. Since it is the duty of the Coast Guard to protect American merchant marine vessels and their personnel against unnecessary hazards, the only order suitable for this offense is revocation of a seaman's documents.

Appellant's contentions raised on appeal are considered to be without merit. This is not the proper tribunal before which to complain about the treatment received in connection with Appellant's conviction in the Federal court. The proper place to raise these defenses would have been in the Federal court. In any event, it could not alter the result herein since Appellant pleaded "guilty" to the specification. For the reasons mentioned above, the other points urged by Appellant do not persuade me to modify the Examiner's order.

ORDER

The order of the Examiner dated 4 June, 1951, should be, and it is, *AFFIRMED*.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 17th day of September, 1951.

***** END OF DECISION NO. 514 *****

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