

In the Matter of Merchant Mariner's Document No. Z-199903-D4
Issued to: DENNIS GODFREY SAUNDERS

DECISIONS AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

733

DENNIS GODFREY SAUNDERS

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.

By order dated 28 October, 1953, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariners Document No. Z-199903-D4 issued to Dennis Godfrey Saunders upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as galley utilityman on board the American SS ALCOA RUNNER under authority of the document above described, on or about 6 December, 1950, while said vessel was in the port of New Orleans, Louisiana, he wrongfully had in his possession certain narcotic substances; to wit, marijuana.

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 counsel of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer and Appellant made their opening statements and the Investigating Officer introduced in evidence a certified copy of a Judgement and Commitment Order entered by a Federal court which states that Appellant was convicted of having possession of narcotics on board a United States vessel. It was stipulated that Appellant was serving on the ALCOA RUNNER on 6 December, 1950, and that the court order resulted from a search, by Custom authorities, of Appellant's quarters on the ALCOA RUNNER on 6 December, 1950, while the ship was at New Orleans. The Investigating Officer then rested his case and the Examiner ruled that a prima facie case had been made out against Appellant.

In defense, Appellant offered in evidence his unsworn testimony. He stated that marijuana had been found in Appellant's forecastle by one of the Customs men who were searching the ship. Appellant denied ownership of the marijuana but he said that he entered a plea of guilty to the offense, in the Federal court, because a Customs man told Appellant that he would receive the maximum sentence of five years if he did not plead guilty. Appellant also submitted, in mitigation, a letter from his mother.

Having given both parties an opportunity to submit argument and proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification. Then he entered the order revoking Appellant's Merchant Mariner's Document No. Z-199903-D4 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:

1. Leniency should be shown because Appellant has been punished by imprisonment for the alleged crime. Appellant should be rehabilitated by affording him a means of sound economical gain.
2. The seven dependents of Appellant are suffering incalculably as a result of his ruthless detachment from the sea after devoting fourteen years of his life to it.
3. Going to sea is Appellant's whole life and his only means of proving himself. Appellant pleads that the Commandant

will take a humanitarian, rather than a disciplinary, role.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On a foreign voyage including the date of 6 December, 1950, Appellant was serving as a galley utilityman on board the American SS ALCOA RUNNER and acting under authority of his Merchant Mariner's Document No. Z-199903-D4 while the ship was in the port of New Orleans, Louisiana.

On the morning of this date, a U. S. Customs official found a brown paper bag, containing marijuana, in the forecandle which Appellant shared with three other members of the crew. Appellant was in his forecandle at the time and he denied ownership of the bag and its contents when the Customs official told Appellant that it had been found in his locker and asked Appellant if it was his. The other three occupants of the forecandle were not present but they were questioned later and they also denied ownership of the marijuana.

As a result of the above incident, Appellant was indicted and brought to trial before the District Court of the United States from the Eastern District of Louisiana, New Orleans Division, on 24 January, 1951. After having waived his right to counsel, Appellant was convicted on his plea of guilty to the offense of possession of narcotics on board a United States vessel in violation of Title 21 United States Code 184(a). Appellant was sentenced to imprisonment for the period of 18 months.

There is no record of prior disciplinary action having been taken against Appellant.

OPINION

Title 46 Code of Federal Regulations 137.15-5(a) states that the judgement of conviction by a Federal court is res judicata of the issues decided by that judgement; and that such a judgement is conclusive in proceedings under 46 United States Code 239 when the

latter is based upon the same facts as the action taken in the Federal court. Therefore, Appellant's conviction by the District Court of the United States for the Eastern District of Louisiana, New Orleans Division, is conclusive in this case.

The points raised by Appellant on appeal are not persuasive. The purpose of these proceedings is not to punish seamen for their conduct but to protect other seamen and property from danger. Since the presence of narcotics on board ship is one of the greatest known dangers to the safety of the ship and all on board, the order of revocation will be sustained despite the personal hardships involved and Appellant's earnest desire to go to sea again. This is the constant policy of the Coast Guard in all narcotics cases.

ORDER

The order of the Examiner dated at New York, New York, on 28 October, 1953, is AFFIRMED.

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

Dated at Washington, D. C., this 2nd day of April, 1954.

***** END OF DECISION NO. 733 *****

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