

In the Matter of Merchant Mariner's Document No. Z-761708-D2
Issued to: WILLIE SMITH

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

784

WILLIE SMITH

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 12 August, 1954, an Examiner of the United States Coast Guard at Savannah, Georgia, revoked Merchant Mariner's Document No. Z-761708-D2 issued to Willie Smith upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as a messman on board the American SS AFRICAN SUN under authority of the document above described, on or about 21 July, 1954, while said vessel was in the port of Savannah, Georgia, he wrongfully had 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. Appellant was represented by an attorney of his own selection and he entered a plea of "guilty" to the charge and specification proffered against him. At this time, Appellant admitted that he knew he had marijuana in his possession.

Thereupon, the Investigating Officer made his opening

statement and counsel for Appellant made a plea in mitigation. Counsel stated that he thought the purpose of the Merchant Marine would be served best if Appellant were given a suspension. As reasons for this, counsel mentioned Appellant's prior clear record, the fact that he has never had any trouble before, Appellant's good record in the Navy, and his very conscientious and religious nature.

At the conclusion of the hearing, 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 plea to the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-761708-D2 and all other licenses, certificates 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 had no knowledge concerning the marijuana which was found in Appellant's locker by Customs officials; Appellant plead "guilty" on advice of counsel; Appellant has never been involved in any disciplinary action by the Coast Guard; there was friction between Appellant and the Chief Cook on the ship; and Appellant is absolutely innocent and strictly a victim of circumstances. For these reasons, Appellant respectfully requests a dismissal of the case.

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

FINDINGS OF FACT

On 21 July, 1954, Appellant was serving as a messman on board the American SS AFRICAN SUN and acting under authority of his Merchant Mariner's Document No. Z-761708-D2 while the ship was at Savannah, Georgia.

During a search conducted by the Customs authorities, a quantity of marijuana was found in Appellant's locker and clothing.

OPINION

In view of Appellant's plea of Guilty" to the charge and specification, the quantity of marijuana which was discovered by the Customs officials is immaterial. Appellant plead "guilty" to knowing, wrongful possession of marijuana after the Examiner had fully explained the significance of such a plea. In addition, Appellant was adequately represented by an attorney. In fact, it was upon questioning by his counsel that Appellant admitted that he had an amount of marijuana "equivalent to about 20 or 30 cigarettes" R.5 but he though he had cleaned it up "at the time that they caught me with this marijuana." R.6 Presumably, Appellant meant that he had gotten rid of the bulk of the marijuana before the Customs search. But his plea of "guilty" to wrongful possession "on or about 21 July, 1954," indicates that the disposal of the major portion of the marijuana took place "on or about 21 July, 1954."

The foregoing shows that Appellant's contention that he is absolutely innocent of the alleged offenses is directly contradictory to what appears in the hearing record. Therefore, such a contention cannot be entertained.

Despite Appellant's prior clear record, the order of revocation will be sustained. Because of the seriousness of all narcotics offenses, revocation in such cases has been made mandatory by regulation. 46 C.F.R. 137.03-1.

ORDER

The order of the Examiner dated at Savannah, Georgia, on 12 August, 1954, is AFFIRMED.

A. C. Richmond
Vice Admiral, U. S. Coast Guard
Commandant

Dated at Washington, D.C., this 5th day of January, 1955.

***** END OF DECISION NO. 784 *****

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