

0843

In the Matter of Merchant Mariner's Document No. Z-901809R and all
other Licenses, Certificates and Documents
Issued to: JOHN HENRY WALLACE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

843

JOHN HENRY WALLACE

This appeal has been taken in accordance with Title 46 United States Code 239(g) with Title 46 Code of Federal Regulations Sec. 137.11-2.

On 15 August 195k, an Examiner of the United States Coast Guard at Baltimore, Maryland, revoked Merchant Mariner's Document No. Z-901809R issued to John Henry Wallace upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as an able seaman on board the American SS EXCALIBUR under authority of the document above described, on or about 26 October 1954, 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 two possible results of the hearing - revocation or dismissal. 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 "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, without objection, documentary exhibits.

In mitigation, Appellant offered in evidence his sworn testimony. He stated that he has completely stopped smoking marijuana since leaving the EXCALIBUR and that he has never used any narcotics other than marijuana.

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-90809R 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 is no longer a user of marijuana; depriving Appellant of his livelihood will work a hardship on his dependents; and Appellant has no prior record. Appellant requests that he be given another chance.

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

FINDINGS OF FACT

On 26 October 1954, Appellant was serving as an able seaman on board the American SS EXCALIBUR and acting under authority of his Merchant Mariner's Document NO. Z-901809R WHILE A ROUTINE SEARCH OF THE SHIP WAS CONDUCTED IN THE PORT OF BOSTON, Massachusetts, by a Customs Searching Squad. A cigarette containing 18 grains of marijuana was found in Appellant's locker. Appellant admitted ownership and stated that he had smoked the other 2 of the 3 marijuana cigarettes which he had obtain din Barcelona, Spain, in exchange for 3 packages of American cigarettes. There was no criminal prosecution against Appellant for this offense.

OPINION

The seriousness of the offense of possession of marijuana is shown by the fact that seamen's documents have consistently been revoked, over a period of many years, for such acts of misconduct. This order of revocation is now made mandatory by regulations. 46 CFR 137.03-1. Therefore, the order of the Examiner will be sustained regardless of Appellant's otherwise clear record and the personal hardship involved.

ORDER

The order of the Examiner dated at Baltimore, Maryland, on 15 August 1955 is AFFIRMED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 9th day of December, 1955.

***** END OF DECISION NO. 0843 *****

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