

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD vs.
MERCHANT MARINER'S DOCUMENT Z-297479-D1
Issued to: Aubrey Philpott

DECISION OF THE VICE COMMANDANT ON APPEAL
UNITED STATES COAST GUARD

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Aubrey Philpott

This appeal had been taken in accordance with Title 46 U.S.C. 239(g) and 46 CFR 5.30-1.

By order dated 13 January 1983, an Administrative Law Judge of the United States Coast Guard at Long Beach, California suspended Appellant's seaman's document for six months, plus six months on twelve months probation, upon finding him guilty of misconduct. The specification found proved alleges that while serving as Wiper on board the SS KEYSTONER under authority of the captioned document, on or about 8 December 1982, Appellant, at the Port of Houston, Texas had approximately ten grams of marijuana in his possession.

The hearing was held at Houston, Texas and Long Beach, California on 17 December 1982 and 13 January 1983.

At the hearing in Houston, Appellant was not present, but a motion for change of venue to Long Beach, California was made on his behalf and granted. At the hearing in Long Beach, Appellant elected to act as his own counsel and entered a plea of guilty to the charge and specification.

The Investigating Officer in Houston introduced four documents and the testimony of two Customs Officers into evidence.

The Investigating Officer in Long Beach introduced one document, evidence of Appellant's prior record.

Appellant testified that he was experimenting and use of marijuana would not recur.

At the end of the hearing, the Administrative Law Judge rendered an oral decision in which he concluded that the charge and specification had been proved by plea. He then served a written order on Appellant suspending all documents issued to Appellant for a period of six months plus six months on twelve months probation.

The entire decision was served on 26 January 1983. Appeal was timely filed on 17 January 1983.

FINDINGS OF FACT

On 8 December 1982, Appellant was serving as Wiper on board the SS KEYSTONE and acting under authority of his document while the vessel was in the port of Houston, Texas. A U.S. Customs Inspection Team boarded the vessel. With the assistance of a dog which was trained to detect marijuana, the Customs Inspectors discovered approximately ten grams of marijuana in a paper sack in Appellant's room. Appellant was the only member of the crew berthed there.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Administrative Law Judge. It is urged that the order will cause Appellant's wife and children a great hardship.

APPEARANCE: Aubrey Philpott, *pro se*.

OPINION

Appellant urges that I allow him to return to sea because the order entered here will cause him, his wife, and children a great economic hardship. I have recognized the hardship that revocation may work upon a seafarer and those who look to him for support, but rejected it as a ground for overriding the remedial safety objectives of these proceedings. See, Decision on Appeal 2279 (LEWIS). I have also recognized that outright suspension will cause hardship to seaman and their families but likewise rejected it as a ground for relief. See, Decision on Appeal Nos. 1666 (WARD), 1881 (DAVIS) and 1921 (WIGREN). Appellant has raised no compelling ground of appeal. Although he prays for clemency he does not suggest the order is too severe. The Administrative Law Judge found that the Appellant's possession of marijuana was due to experimentation and entered a lenient order. Appellant has urged no reasons sufficient to justify setting aside what I consider to be an appropriate order.

CONCLUSION

The decision of the Administrative Law Judge was correct in law and fact. His order was appropriate to the facts of this case.

ORDER

The order of the Administrative Law Judge dated at Long Beach, California on 26 January 1983, is AFFIRMED.

B. L. STABILE
Vice Admiral, U.S. Coast Guard
VICE COMMANDANT

Signed at Washington, D.C., 13th day of September 1983.

***** END OF DECISION NO. 2323 *****

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