

IN THE MATTER OF LICENSE NO. R-22078 MERCHANT MARINER'S DOCUMENT
Z-1216454 AND ALL OTHER SEAMAN'S DOCUMENTS
Issued to: Norman Kent BEALS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1680

Normon Kent BEALS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 29 August 1967, an Examiner of the United States Coast Guard at San Francisco, California, revoked Appellant's seaman's documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as a radio officer on board the United States SS WILLAMETTE VICTORY under authority of the document and license above described, on or about 2 June 1967, Appellant wrongfully had marijuana in his possession while the vessel was at Qui Nhon, Vietnam.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the testimony of several witnesses and an envelope containing a hand-folded

packet which, in turn, contained a "brownish grassy looking substance," identified on the record as marijuana. This real evidence was delivered back to an employee of the Bureau of Customs, and a written description was substituted in the record.

In defense, Appellant testified in his own behalf.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved. The Examiner then entered an order revoking all documents issued to Appellant.

The entire decision was served on 8 September 1967. Appeal was timely filed on 5 October 1967 and perfected on 11 December 1967.

FINDINGS OF FACT

On 2 June 1967, Appellant was serving as radio officer on board the United States SS WILLAMETTE VICTORY and acting under authority of his license and document while the ship was in the port of Qui Nhon, Vietnam.

On the evening of 1 June 1967, the master of WILLAMETTE VICTORY observed Appellant acting in an erratic fashion on board the vessel. Believing that the condition was not, within his experience, the result of ordinary alcoholic intoxication, the master decided to make a search of Appellant's quarters, which he did the next day, accompanied by the chief mate.

In a drawer under Appellant's bunk they found a hand-folded envelope made of tissue, containing a grass-like substance and papers like cigarette papers. This material was placed in an envelope which was then sealed, signed by the master and mate, and placed in the master's locker.

On arrival in the United States the master delivered this envelope to agents of the Bureau of Customs who, in turn, delivered it to the Customs laboratory at San Francisco. Analysis by a Customs chemist established that the grass-like substance was marijuana.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the marijuana did not belong to Appellant.

On appeal it is conceded that the marijuana was in fact found in Appellant's room, and the chain of custody from finding to analysis is acknowledged.

Appellant asserts, as he did at the hearing, that he had no knowledge of the substance found in his drawer, and adds, on appeal, a theory to account for its presence. The theory is that some crew member who disliked him and who recalled his frequent admissions on board the ship that he had used both marijuana and LSD, took advantage of the fact that he usually left his room unlocked to plant the package and then spread a report that the radio officer had marijuana in his room.

OPINION

The evidence of the finding of marijuana in a drawer under Appellant's bunk was sufficient to raise a presumption of knowledge on Appellant's part, and the Examiner correctly found that a *prima facie* case had been established. At the conclusion of the case, the Examiner had the duty to weigh all the evidence. He rejected Appellant's denial of knowledge, and then predicated his findings on the substantial evidence against Appellant. It is not surprising that he chose to accord no weight to the denial of a person who freely admitted his previous use of both marijuana and LSD, claiming only that he never used the drugs while on articles.

The additional explanation offered on appeal is no more persuasive, particularly in view of the clear testimony of the master that he instituted his search not because of any rumor he had heard but because his suspicions had been aroused by his personal observation of Appellant's conduct.

CONCLUSION

No reason appears to disturb the findings of the Examiner which were based on substantial evidence.

ORDER

The order of the Examiner dated at San Francisco, California, on 29 August 1967, is AFFIRMED.

W. J. SMITH
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 29th day of February 1968.

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