

In the Matter of Certificate of Service No. A-14082
Issued to: ANTHONY L. TIMAS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

332

ANTHONY L. TIMAS

This case comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations 137.11-1.

On 3 March, 1949, an Examiner of the United States Coast Guard entered an order revoking Certificate of Service No. A-14082 and all other documents issued to Anthony L. Timas upon a plea of "guilty" to a charge of misconduct, supported by a specification alleging that Anthony L. Timas unlawfully possessed, received, and facilitated transportation and concealment of approximately 212 grains of heroin while serving as an able seaman aboard the SS MARINE FALCON on 23 July, 1947, in New York, New York.

At the hearing, Appellant was advised of his rights and was represented by counsel. No witnesses appeared. The Investigating Officer described the results of his investigation of the case. Counsel for Appellant made a statement in the nature of a plea that Appellant be given another chance to go to sea based on counsel's personal knowledge of Appellant's previous history and on circumstances surrounding the case. The Examiner found the charge and specification proved by the Appellant's plea and entered the order of revocation.

From that order, this appeal has been taken by counsel for and in behalf of Appellant. The appeal is not based on any mistake in law or fact, or on any objection to the hearing procedure. Counsel contends that the order of revocation inflicts undue and unusual hardship on Appellant, and that the ends of justice would be served by "suspension for one year on two years' probation." Counsel submits as reasons for granting the appeal:

- (a) Appellant is worthy of exception from any hard and fast rule of law or policy because of special circumstances and individual merits.
- (b) Appellant has already been punished by a Federal Court and his debt to society has been paid; that he should have an equal chance with a criminal who having served a long prison sentence for a felonious assault can now apply and get seamen's papers without anyone knowing of his prior criminal record.
- (c) Counsel is personally familiar with Appellant's general reputation and is willing to assume responsibility for the Appellant's continued good behavior in all respects.
- (d) Appellant served honorably and with distinction throughout the late war on many vessels and transports, and that his two previous offenses do not detract from his splendid war record or his integrity and character as a professional seaman.
- (e) Appellant is not adapted to or capable of making a decent living wage ashore, but is adapted to and desirous of being allowed to go to sea to earn a decent living wage which is a fundamental right of all Americans; that Appellant is presently in sore need of funds.
- (f) That under the circumstances of this case, an exception will in no way jeopardize the adamant and justifiable standard set up by United States Government agencies in punishing persons found guilty of narcotics offenses: that Appellant's authority to go to sea might be limited to vessels sailing between American ports until he proves worthy of unlimited service.

Based upon a careful examination of the Record, I make the following

FINDING OF FACTS

On 23 July, 1947, this Appellant was serving as an able seaman on the American SS MARINE FALCON under authority of his Certificate of Service No. A-14082. On that date while said vessel was at New York, New York, Appellant did unlawfully receive, possess, and facilitate the transportation and concealment of approximately 212 grains of heroin aboard said vessel.

On 30 July, 1947, Appellant was convicted of unlawfully receiving, possessing, and facilitating the transportation and concealment of approximately 212 grains of heroin, while serving aboard aforesaid vessel, in the United States District Court for the Southern District of New York, and was sentenced to one year and one day imprisonment.

OPINION

I have on several past occasions stated my conviction that users or purveyors of narcotic drugs are undesirable as merchant seamen. Their presence on shipboard is a constant menace to the safety of their vessel and shipmates. The individual hardship which may result from revocation of one person's certificate of service is outweighed by considerations of safety for many innocent persons and for safety of property. If the revocation prevents only one injury, which, except for narcotics being involved, would not have occurred, then the revocation is justified. The promotion of safety of life and property at sea is of such great concern to the Coast Guard that it cannot agree to jeopardizing safety by giving those found guilty of narcotic offenses a second chance.

CONCLUSION AND ORDER

Nothing appears in this Record, or by the appeal, which warrants my intervention in this case.

The order of the Examiner entered on 3 March, 1949, revoking Certificate of Service No. A-14082 and all other documents issued to Appellant by the Coast Guard should be, and it is AFFIRMED.

MERLIN O'NEILL

Rear Admiral, United States Coast Guard

Acting Commandant

Dated at Washington, D. C., this 5th day of May, 1949.

***** END OF DECISION NO. 332 *****

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