

In the Matter of Certificate of Service No. E-410983
Issued to: ERNEST GRIFFIN

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

319

ERNEST GRIFFIN

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 appeal from an order dated 20 December, 1948, by an Examiner of the United States Coast Guard at New York, revoking the Certificate of Service No. E-410983 held by Ernest Griffin upon a plea of "guilty" to a charge of misconduct supported by one specification alleging that while Griffin was serving as a utilityman on board the American SS SANTA PAULA under authority of said certificate, he did, on or about 17 November, 1948, when said vessel was in a domestic port, unlawfully have in his possession eight marijuana cigarettes containing a total of fifty-three grains of marijuana.

At the hearing, Appellant was advised of his constitutional rights but voluntarily waived representation by counsel and unqualifiedly pleaded "guilty" to the charge and specification. After hearing Appellant's explanation of his possession of the marijuana, the order of revocation was entered and this appeal followed.

The original notice of appeal assigns four grounds:

1. The sentence was excessive.
2. The person accused was not given an opportunity to

- prepare for the hearing.
3. He was not fully appraised of the charges against him.
 4. He was not made aware that he was pleading guilty of the charges.

The record before me supports the following:

FINDINGS OF FACT

On 17 November, 1948, Appellant was serving as utilityman under authority of the certificate above identified on the American SS SANTA PAULA, which vessel was then berthed at Pier 58, North River, New York Harbor. At about 3:00 P.M. on that date a Port Patrol Officer of the Bureau of Customs intercepted Appellant as the latter was about to leave the pier and inquired whether Appellant had any unmanifested or undeclared merchandise on his person. Upon receiving a negative reply, Appellant was searched and eight marijuana cigarettes were discovered in the sock worn on his left foot.

These cigarettes were later analyzed and found to contain fifty-three grains of marijuana.

Upon the discovery as aforesaid, Appellant stated that he had purchased twelve such cigarettes from an unknown peddler in Venezuela; that he had smoked four cigarettes on the vessel while en route to New York; that he had been smoking marijuana for approximately two years.

Because of the small quantity involved, the Assistant United States Attorney for the Southern District of New York declined prosecution, but the Bureau of Customs assessed penalties totaling \$9.09 against Appellant and the Master - which amount was paid by the Appellant. Appellant denied that he was selling cigarettes and claimed that he was using them to obtain relief from cold, headache and nosebleed.

OPINION

The second, third and fourth points raised by the original appeal are not discussed in the brief filed on behalf of this

Appellant and may be disposed of by my observation that none of them have support in the record.

It is, however, contended that the punishment is excessive and an abuse of the Examiner's discretion for that:

- (a) The United States Attorney declined to prosecute;
- (b) Appellant is suffering from a chronic ailment of "some description" for which he has been unable to obtain medical relief and resorted to the use of marijuana in an attempt to help himself;
- (c) Appellant is married and has two very young children dependent upon him;
- (d) Appellant has been going to sea for five years during the war and has no previous record with the Coast Guard.

If each proposition last above enumerated is conceded as a fact there still remains Appellant's admission that he has been a user of marijuana for approximately two years, and his unsuccessful attempt to smuggle the cigarettes into the United States, even for his own use, do not inspire assurance that he is a desirable member of the American Merchant Marine.

Past experience has taught that persons who use marijuana are a menace not only to themselves but to their shipmates and the vessels on which they are employed.

I have repeatedly stated the proposition that persons who use, handle or in any way become involved in the violation of our narcotic and drug laws are undesirable merchant seamen. I find no reason to make any exception in this case.

CONCLUSION AND ORDER

The order of the Coast Guard Examiner dated at New York, 20 December, 1948, revoking Appellant's Certificate of Service No. E-410983 is AFFIRMED.

J.F. FARLEY
Admiral, United States Coast Guard

Commandant

Dated at Washington, D.C., this 4th day of April, 1949.

***** END OF DECISION NO. 319 *****

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