

In the Matter of Certificates A-124374 and E-537328
Issued to: ANGEL B. MORET

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ANGEL B. MORET

This appeal comes before me by virtue of 46 United States Code 239(g) and 46 Code of Federal Regulations 137.11-1 from a decision dated 3 December, 1948, by an Examiner of the United States Coast Guard revoking Certificates A-124374, E-537328 and all other certificates or documents issued by the Coast Guard to Angel B. Moret upon finding him guilty of misconduct under one specification reciting that he did, on or about 17 October, 1948, while serving as an ordinary seaman on the American SS MORMACTEAL, unlawfully have in his possession two and one-third marihuana cigarettes.

At the hearing, Appellant voluntarily waived his right to representation by counsel; announced his comprehension of the nature of the proceedings and the possible results; and in answer to the charge and specification, he entered a plea of "guilty" with an explanation. The explanation offered was that the Appellant had purchased three marihuana cigarettes in New York City during the evening of October 16 and had only consumed a portion of one before he was searched by the Customs Officer at Pier 32, North River, New York on 17 October; that he had been smoking marihuana for only about three months; and he assured the Examiner there would be no second incident of this nature. At the conclusion of the hearing, the Examiner filed his decision revoking the Coast Guard documents held by Appellant.

From that decision, this appeal has been taken and seven (7) grounds are asserted as a basis for reconsideration of the Examiner's action. In substance, these grounds are:

1. Appellant is twenty-five years of age and has served as a merchant seaman on three or more American vessels during the last four years in four active theatres of war;
2. He has no earlier police or criminal record nor any record of difficulty as a merchant seaman;
3. The marihuana was for his personal use and no monetary gain to himself was involved, and
4. The Appellant frankly and honestly admitted possession of the marihuana.

It is urged the decision which revokes his documents imposes excessive punishment and he requests that he be placed on probation.

Based upon a careful study and consideration of the record in this case, I make the following

FINDINGS OF FACT

On 17 October, 1948, this Appellant was an ordinary seaman in the service of the American SS MORMACTEAL which was then at Pier 32, North River, New York. In that capacity, he was serving under authority of the documents hereinabove described.

When leaving said vessel on that date, he was apprehended by an officer of the United States Customs Service and it was then discovered that he had one and one-third marihuana cigarettes on his person and another such cigarette was found in his effects on board the vessel, containing a total of eight grains of marihuana.

OPINION

While the record in this case does not disclose that Appellant's possession of marihuana cigarettes on the particular occasion was associated with any organized or other distribution of deleterious habit forming narcotics or drugs, and it does show a

number of facts which are favorable to the Appellant, the whole picture is shadowed by the outstanding fact that he had been voluntarily using marihuana for three months before he was apprehended.

I appreciate it to be the duty of the Coast Guard to maintain discipline on American merchant vessels, as well as to insure, as far as possible, the safety of life and property at sea, and I can conceive nothing more destructive of both obligations than permitting the presence on board such vessels of persons under the influence of marihuana. The incidents where persons so under that influence have brought death and serious injury to their shipmates have been multiplied too often to justify treating even the casual use of marihuana lightly by granting probation in the hope of reformation without some more positive demonstration that the habit, once formed, has been completely broken and the addict entirely cured. This can only be accomplished by the lapse of sufficient time to warrant a medical conclusion, predicated upon continuing evidence and examinations, that the subject has in fact wholly conquered the drug habit.

CONCLUSION AND ORDER

In the light of these considerations, I am of the opinion the decision of the United States Coast Guard Examiner, dated 3 December, 1948, should be, and it is, AFFIRMED.

J. F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C. this 7th day of January, 1949.

***** END OF DECISION NO. 305 *****

