

In the Matter of Certificate of Service No. E-327682
Issued to: JUAN EVANGELISTA VAZQUEZ

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

306

JUAN EVANGELISTA VAZQUEZ

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

On 6 December, 1948, an Examiner of the United States Coast Guard revoked Certificate of Service No. E-327682 and all other certificates of service or documents issued by the Coast Guard to Juan Evangelista Vazquez upon finding him guilty of misconduct under one specification reciting that on or about 4 August, 1947, while serving as a messman on the American SS ROBIN GOODFELLOW at Weehawken, New Jersey, had in his possession certain narcotics (marijuana) contrary to law.

At the hearing, Appellant waived his right to representation by counsel, was given a full explanation of the nature of the proceedings and possible results; but entered a plea of "guilty" to the charge and specification. Thereupon the Examiner ordered Appellant's documents revoked as stated above.

From that decision, this appeal has been taken based upon four major and six subordinate grounds looking to reconsideration and modification of the Examiner's action. In view of the conclusion to be hereinafter stated, it seems unnecessary to review the

several points raised on appeal.

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

FINDINGS OF FACT

On 4 August, 1947, while serving under authority of Certificate of Service No. E-327682, under foreign articles, as messman on the American SS ROBIN GOODFELLOW, then at Weehawken, New Jersey, Appellant was apprehended by a Customs Officer when leaving said vessel, and search discovered a substantial quantity of marijuana contained in a pillowcase which was part of his personal effects.

Before a United States District Court for New Jersey, Appellant pleaded guilty to an information charging unlawful possession of marijuana (Title 26 U.S.C. 2593a); was sentenced to a term of imprisonment for one year, but said sentence was suspended and he was placed upon probation for one year.

OPINION

It should be well known by this time that the Coast Guard will not permit merchant seamen to retain mariner's documents when they are apprehended violating federal laws - and this is particularly true of transgressors against the narcotic and drug statutes.

This case has given me much concern, primarily because the Record does not entirely satisfy me. Appellant fully appreciated or understood the nature and possible consequences of the proceedings. He rejected the opportunity to be represented by counsel, assigning as the reason, his financial inability to engage a lawyer at the time of hearing.

I am not favorable impressed by his explanation for possession

of such a large quantity of a commodity which proved to be marijuana. I am especially unimpressed by his claim that he made no attempt to conceal his acquisition, because it is admitted he attempted to land the "ruda" carried in the bottom of his seabag.

However, he is now represented by counsel, and on a new trial, Appellant's interests may be more fully protected. I am not prepared to prognosticate the Examiner's decision if the testimony then offered follows the pattern of that adduced at the first hearing.

CONCLUSION

This case will be remanded to the Examiner, Third Coast Guard District for rehearing in line with the foregoing.

Appellant's documents shall be retained by the Coast Guard pending a final determination of this case.

ORDER

For the reasons assigned, the order dated 6 December, 1948, is reversed, vacated and set aside. The Record is remanded to the Examiner, Third Coast Guard District for further proceedings not inconsistent herewith.

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

Dated at Washington, D.C., this 2nd day of March, 1949.

***** END OF DECISION NO. 306 *****

