

In the Matter of Merchant Mariners Document No. Z380093
Issued to: NEIL FREDERICK ARSENAULT

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

307

NEIL FREDERICK ARSENAULT

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

On 21 December, 1948, an Examiner of the United States Coast Guard revoked Merchant Mariners Document No. Z380093, and all other certificates of service or documents issued by the Coast Guard to Neil Frederick Arsenault upon finding him guilty of misconduct under one specification reciting that on or about 2 October, 1948, while serving as a Fireman/Watertender on the American SS STEEL DIRECTOR in a domestic port, he unlawfully had in his possession certain narcotics, to wit, thirteen small tubes of smoking opium.

At the hearing, Appellant voluntarily 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 and the following grounds are assigned in support of a plea for reconsideration and modification of the Examiner's action:

1. Appellant is twenty-two years of age, married and helps support his widowed mother.
2. He has served as a merchant seaman on three American vessels following his honorable discharge after five years service in the United States Navy.
3. He has no prior record of difficulty as a merchant seaman.
4. Following his plea of "guilty" before the U. S. District Court, District of Massachusetts, to an Information wherein he was charged with a violation of 21 U.S.C. 174 (concealing and possessing narcotic drugs) the Customs Agent and others through the United States Attorney recommended leniency because of his prior good conduct and the fact that he was not connected with a smuggling ring; whereupon the Federal judge imposed a sentence of six months and suspended that sentence for two years.
5. Appellant fully realizes the serious nature of his offense but urges the order of the Examiner be modified to permit him to follow the vocation of his choice.

6. The Examiner's order is too severe in view of Appellant's prior good record.

Attached to the appeal are letters from the probation officer of the Federal Court in Boston and the pastor of a Boston church - both of which commend Appellant for his past good record, his good family and the fact that the court considered him to be impulsive rather than criminal.

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

FINDINGS OF FACT

On 9 June, 1948, Appellant, acting under authority of his Merchant Mariners Document No. Z380093, signed shipping articles as Fireman/Watertender on the American merchant vessel STEEL DIRECTOR. When said vessel was in a Siamese port, Appellant purchased a quantity of opium with the intention of selling it upon his arrival in the first United States port. While the STEEL DIRECTOR was in Boston on 2 October, 1948, Appellant offered to produce thirteen

small tubes of smoking opium to a Customs Agent who had posed as a person able to get the narcotic off the ship and sell it. Upon production of the opium, Appellant was arrested and later pleaded "guilty" to an Information in the United States District Court, Boston, Massachusetts, wherein he was charged with possession of opium in violation of 21 U.S.C. 174.

Appellant frankly admitted he had bought the opium with full knowledge of the penalty likely to be imposed should he be apprehended with the drug in his possession.

OPINION

Appellant submits impressive reasons for granting clemency; his youth and domestic status, his honorable service with the Navy during the war, his family background, with letters of commendation in his behalf, and finally, his own frankness and honesty in confessing the wrong which he committed - an attitude not frequently encountered by the Coast Guard. I have considered the action of the Federal Court in Appellant's case but in my opinion the responsibility of the Coast Guard extends beyond the punishment of one individual. Appellant undertook this adventure with full appreciation of "what the penalty was if I got caught." His offense does not involve so much the harm or injury which might come to himself as it does the introduction of a drug, capable of wreaking incalculable injury to others, and which can not always be traced to the transgressor. I consider the Coast Guard has a duty to do whatever it can to discourage the illegal introduction of drugs into the United States and to prevent potential violators from engaging in service where such operations can exist.

Perhaps the appeal has been inartistically prepared and it may or may not be significant that Appellant has given no indication that this experience has taught him a salutary lesson or that he will abstain from similar or other incidents which, in violation of our laws, tend to afford him a quick and easy financial security.

My review of the record and the grounds of appeal in this case do not satisfy me that modification of the Examiner's decision is warranted.

CONCLUSION AND ORDER

The decision and order of the Examiner dated 21 December, 1948, are *AFFIRMED*.

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

Dated at Washington, D. C., this 28th day of January, 1949.

***** END OF DECISION NO. 307 *****

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