

In the Matter of Certificate of Service No. E701236
Issued to: FRANK LEROY DAVIS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

308

FRANK LEROY DAVIS

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. E701236, and all other certificates of service or documents issued by the Coast Guard to Frank Leroy Davis upon finding him guilty of misconduct under one specification reciting that on or about 7 October, 1946, while serving as a messman on the American SS WEST LINN VICTORY in a domestic port, he unlawfully had in his possession certain narcotic drugs, to wit, 422 grains of marijuana.

At the hearing, Appellant voluntarily waived his right to representation by counsel, announced his understanding 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 on the following grounds:

1. That Appellant merely acted as a gratuitous messenger for

a friend in Rotterdam to transport to a person in New York a very small quantity of a commodity which had been identified to him as "Dutch tobacco" but which was, in fact, marijuana;

2. That Appellant did not know the package which he was conveying contained a drug prohibited by the laws of the United States and rules of the Coast Guard;
3. That since no punitive action was taken by the Federal civil authorities after the above explanation was made, the Coast Guard should also be satisfied and refrain from depriving him of a livelihood.

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

FINDING OF FACT

On 7 October, 1946, Appellant was serving as messman on the American SS WEST LINN VICTORY, under authority of his Certificate of Service No. E701236 (Z-689054). The vessel was then berthed at Pier 9, Hoboken, New Jersey.

When leaving said vessel on that date, Appellant was apprehended by a United States Customs agent, and 422 grains of marijuana were discovered on his person.

OPINION

I am not favorably impressed with Appellant's explanation of the presence of the drug on his person at the time it was discovered. Even if the person in Rotterdam did misrepresent the identity of the commodity which he requested Appellant to deliver in New York, his description of the effects which its use would produce should have satisfied Appellant that it was a drug and inspired him to make further inquiries before undertaking to introduce it into the United States.

Nor do I consider the Coast Guard is to be either bound or influenced by the fact that Federal civil authorities took no action looking to the incarceration of Appellant. It does appear that he paid monetary penalties, which were sufficient for the other authorities. However, there is much greater responsibility upon the Coast Guard to prevent, whenever possible, the illegal importation of narcotic drugs into the United States than the punishment of an individual. Potential violators of our narcotic laws are especially undesirable merchant seamen, and, if known, will not be permitted to engage in an occupation where such opportunities are present.

As no sound reason appears for my intervention,

CONCLUSION AND ORDER

The decision and order of the Examiner dated 6 December, 1948, should be, and they are, *AFFIRMED*.

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

Dated at Washington, D.C., this 25th day of January, 1949.

***** END OF DECISION NO. 308 *****

[Top](#)