

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-946229 AND ALL
OTHER SEAMAN'S DOCUMENTS

Issued to: Ray White

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1566

Ray White

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.30-1.

By order dated 21 February 1966, an Examiner of the United States Coast Guard at Seattle, Washington, ordered Appellant's seaman documents revoked upon finding him guilty of the charge "conviction for a narcotic drug law violation." The specification found proved alleges that while holder of the document above described, on or about 11 January 1962, Appellant was convicted in the United States District Court for the district of Oregon of violation of narcotic drug laws of the United States.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of guilty to the charge and specification.

The Investigating Officer introduced in evidence a certified copy of the judgement and commitment in the District Court proceedings.

In defense, Appellant offered in evidence his own testimony

and letters of recommendation.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved by plea. The Examiner then entered an order revoking all documents issued to Appellant.

The entire decision was served on 23 February 1966. Appeal was timely filed on 7 March 1966.

FINDINGS OF FACT

On or about 16 January 1962, Appellant surrendered his U.S. Merchant Mariner's document after having been convicted in a United States District Court of violation of narcotic drug laws.

BASES OF APPEAL

This appeal is from the decision and order of the Examiner. It is contended that the surrender of Appellant's document in 1962 voided it and that no action under R.S. 4450 against it can lie.

APPEARANCE: Hatch and Jackson, of Seattle, Washington, by Paul D. Jackson, Esquire

OPINION

I

Shortly after Appellant's conviction in 1962, his U.S. Merchant Mariner's Document was delivered to the Coast Guard by another agency. At that time a letter was addressed to Appellant at the Federal penitentiary asking him to sign a voluntary surrender form and telling him, in the alternative, that he would have to report for hearing on his release.

On 7 February 1966, Appellant made application for "new seaman's papers," furnishing therewith five letters from persons who had employed him or had business dealings with him.

The instant proceedings were taken as a result of that application.

At the hearing Appellant moved to quash the charges on the same grounds as are urged on appeal. Counsel made the point that Appellant had a minimal education and believed in fact that he had surrendered his papers.

II

I take note of the fact that Appellant's application for new papers was made in accordance with the provisions of 46 CFR 137.13, the regulations governing procedure after revocation or surrender.

The inference I draw from this is that Appellant did in good faith believe that a surrender had been executed. In equity then, and to avoid a rig marole of revocation and possible waiver of regulatory requirements, I make the finding of fact, above, *nunc pro tunc*, that surrender was effected on 16 January 1962.

I conclude that no valid proceedings could be held against a voided document.

ORDER

The decision and order of the Examiner dated at Seattle, Washington, on 21 February 1966, is SET ASIDE, and the charges are DISMISSED.

W. J. Smith
Admiral, United States Coast Guard
Commandant

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