

In the Matter of Merchant Mariner's Document No. Z-651377-D1 and
all other Seaman Documents
Issued to: RAMON OJEDA

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1066

RAMON OJEDA

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.11-1.

By order dated 28 March 1958, an Examiner of the United States Coast Guard at New York, New York revoked Appellant's seaman documents upon finding him guilty of the charge of "conviction of a narcotic drug law violation." The specification alleges that, on or about 19 October 1956, Appellant was convicted by the United States District Court for the District of Puerto Rico, a court of record, for a violation of the narcotic drug laws of the United States, to wit: 26 U.S.C. 2591.

At the beginning of the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the two possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant elected to waive that right and act as his own counsel. He entered a plea of not guilty to the charge and specification.

The Investigating Officer made his opening statement and

introduced in evidence documents showing that Appellant was convicted as alleged.

In defense, Appellant offered in evidence his sworn testimony. Appellant stated that he was convicted for delivering a package for a friend, the contents of which Appellant had no knowledge; but that he entered a plea of guilty in court on the advice of counsel with the hop of being placed on probation.

At the conclusion of the hearing, the Examiner rendered the decision in which he concluded that the charge and specification had been proved. An order was entered revoking all documents issued to Appellant.

The decision was served on 28 March. Appeal was timely filed on 8 April.

FINDINGS OF FACT

On 19 October 1956, Appellant appeared with counsel and was convicted on his plea of guilty, before the United States District Court for the District of Puerto Rico, a court of record, to the charge of having transferred approximately 100 marijuana cigarettes, on 4 March 1955, without a written order on a form issued for that purpose as provided by law. This was in violation of a narcotic drug law of the United States, to wit: U.S.C. 2591. Imposition of sentence was suspended and Appellant was placed on probation for a period of two years. There is no indication in the hearing record that this conviction was appealed by Appellant.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. The grounds for appeal are:

1. Appellant's belief in the Coast Guard's fairness and understanding in applying the laws of our country.
2. Reiteration of appellant's testimony that he was not guilty of the alleged offense for which he was convicted since Appellant was completely unaware that the package

he delivered contained marijuana.

3. This order of revocation is further punishment and presents personal hardship to Appellant for something which he did not do.

OPINION

The revocation of Appellant's documents is required by law (46 U.S.C. 239b(b)(1) upon proof of his conviction by a court of record for a violation of 26 U.S.C. 2591 which is a narcotic drug law of the United States as defined in 46 U.S.C. 239a-b. This conviction is conclusive for the purpose of this proceeding under the latter statute and is not subject to collateral attack herein. Therefore, Appellant's contention that he was not guilty and his explanations as to how he was convicted, although innocent, can be of no avail. There is no authority for reconsideration of the order of revocation as long as the conviction by the United States District Court is outstanding. See *Commandant's Appeal* Nos. 932, 1018, 1054.

ORDER

The order of the Examiner dated at New York, New York, on 28 March 1958, is AFFIRMED.

J. A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 22nd day of August 1958.

***** END OF DECISION NO. 1066 *****

