

In the Matter of License No. 00643 and all other Seaman Documents  
Issued to: Glenn R. Bragdon

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1360

Glenn R. Bragdon

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

By order dated 20 June 1962, an Examiner of the United States Coast Guard at Cairo, Illinois suspended Appellant's seaman documents for three months upon finding him guilty of inattention to duty. The four specifications found proved allege that while serving as the person in charge of the United States ferry barge DAVID Z under authority of the license above described, on 6 January 1962, Appellant failed to take necessary precautions to see that the automobiles being transported across the Ohio River on the ferry had their motors turned off, emergency brakes set, wheels blocked, and that their motors were not started until the ferry was secured to the landing.

At the hearing, Appellant voluntarily elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence the testimony of three witnesses and Appellant testified in defense. Several

letters concerning the consistently safe operation of this ferry were also submitted by Appellant.

The detailed findings of fact of the Examiner are adopted as part of this decision. Briefly, the facts are that there were two automobiles on the non-self-propelled barge; it was freezing weather with sleet and snow falling; Appellant remained in the pilothouse of the power boat to hold the barge at the dock while loading; the deckhand did not adequately perform his duties to see that the precautions alleged as offense were taken; when the barge left the dock, the motors of both automobiles were running, their hand brakes were not set and the chocks for the car wheels were not in place; the deckhand said nothing to Appellant about these matters; the forward automobiles moved over the low guard chain and into the river; rescue attempts failed and the two occupants lost their lives. Appellant has served for nine years as the person in charge of this ferry without an accident and the deckhand had been reliable in the past.

On appeal it is requested that the order be modified in view of Appellant's outstanding safety record prior to this incident and the fact that Appellant assumed he could rely on the deckhand because of his past performance.

APPEARANCE ON APPEAL: James G. Gullett, Esquire, of  
Elizabethtown, Illinois, of Counsel.

#### OPINION

The regulations on which the specifications are based place the burden on the person in charge to "take any necessary precautions to see that" automobiles have their motors turned off, their emergency brakes set, wheels securely blocked (if the vehicle is at either end of the vessel), and that their motors are not started until the vessel is secured to the landing. 46 CFR 185.20-20(B). Since the evidence indicates that the motors were not turned off when the trip started, the prohibition against starting them before reaching the dock has no application. Therefore, the conclusion that the last specification was proved is reversed and the specification is dismissed.

As stated by the Examiner, the condition of the weather

required considerable care on the part of the person in charge to see that the safety regulations were complied with. Since Appellant could not leave the power boat in order to ascertain personally that these required precautions were taken with respect to the automobiles, he should at least have questioned the deckhand about these matters before getting under way when the deckhand did not volunteer any information. It was Appellant's responsibility to determine to the best of his ability that the deckhand carried out the instructions he had been given about the automobiles motors, brakes, and blocking the wheels. It is my opinion that Appellant was inattentive to his duty in this respect because he relied solely on the deckhand's prior satisfactory performance.

Nevertheless, the order will be modified due to Appellant's previously unblemished record and the testimonials concerning the safe method in which the ferry barge DAVID Z had been consistently operated by Appellant.

*ORDER*

The order of the Examiner dated at Cairo, Illinois, on 20 June 1962, is modified to provide for a suspension of three months which shall not become effective provided Appellant is not found guilty of an offense under 46 U.S. Code 239 which occurs within twelve months of the date the Examiner's decision was served on Appellant.

As so MODIFIED, the order is AFFIRMED.

E. J. Roland  
Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 31st day of December 1962.

\*\*\*\*\* END OF DECISION NO. 1360 \*\*\*\*\*

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