

In the Matter of License No. 333012  
Issued to: ALBERT GAPINSKI

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1413

ALBERT GAPINSKI

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

By order dated 10 April 1963, an Examiner of the United States Coast Guard at San Francisco, California suspended Appellant's seaman documents for four months on twelve months' probation upon finding him guilty of negligence. The specification found proved alleges that while serving as the Second Assistant Engineer on board the United States WESTCHESTER under authority of the license above described, on 30 March 1963, Appellant negligently failed to close a stop valve on a boiler feed water line, thereby resulting in injury to a shipyard worker inside the steam drum of the idle starboard boiler when hot water entered the drum.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the testimony of several witnesses. Appellant's testimony was the only evidence submitted in defense.

### *FINDINGS OF FACT*

On 30 March 1963, Appellant commenced his service as Second Assistant Engineer on board the United States WESTCHESTER. He was acting under authority of his license while the ship was in port undergoing repairs.

On the morning of this date, a relief Chief Engineer was in the engine room. He was responsible for the routine operations of the engineering plant. Since the Second Assistant Engineer is by custom responsible for boiler maintenance and operation, Appellant was on watch in the engine room to supervise repairs by shipyard workers to the starboard boiler.

The port boiler was in operation and the starboard boiler was dead. The main feed water line was in use for the port boiler while the check valve on the auxiliary feed water line leading to the starboard boiler was being repaired. At each of the four locations where the two feed lines lead to the two steam drums of the boiler by cross-connections, there is a stop (shut-off) valve and a check valve (to prevent back flow). The closing of either valve would prevent water from flowing into the related drum from the feed line in use. One or both of the two valves on the main line to the starboard boiler were closed. At different times, a workman was in the starboard steam drum. About 1000, the check valve on the auxiliary line to the starboard boiler was being installed after the completion of repairs to the valve. Appellant knew of the above factors.

About 1030, the supervisor of the workmen told Appellant that the work on the check valve was completed and requested that he shift from the use of main to auxiliary feed line so that one of the valves on the main line lead to starboard boiler could be repaired or replaced. Appellant questioned the supervisor and then the two workmen at the scene of the installation as to whether the check valve was "shut tight". Appellant received assurances from all three which he interpreted to mean that the valve was definitely closed, but were apparently intended by the workmen only to convince Appellant that the valve was on "tight" as far as the fittings were concerned.

Appellant had previously been told by the Third Mate that the stop valve on the auxiliary line leading to the starboard boiler was closed. Acting on this information and without personally inspecting either valve although he was near them when questioning the two workmen, Appellant turned the valve which permitted hot water to flow into the auxiliary line. The water went into the starboard drum through the auxiliary line since both valves were open. A workman in the drum was scalded. His screams caused Appellant to immediately shut off the water supply to the auxiliary line. The seriousness of the burns suffered by the workman is not contained in the record.

Appellant's prior records consists of several offenses of failure to join and failure to perform his duties on board ship.

#### *BASES OF APPEAL*

This appeal has been taken from the order imposed by the Examiner. It is contended that Appellant was entitled to rely on the assurances received from the shipyard workers rather than personally determining that the valve was closed. Appellant acted reasonable and prudently when he accepted as true the assurances of the shipyard workers who should have known the position of the valve from personal observation of their own work which they had just completed.

APPEARANCE: Derby, Cook, Quinby and Tweedt of San Francisco, California, by Stanley J. Cook, Esquire, of Counsel.

#### *OPINION*

The appeal refers to only a single valve at the location in question but the record shows that there was both a stop valve and a check valve at this point as well as at the other three places where the feed lines entered the boilers.

Appellant was not justified in relying on the word of the shipyard workers even if they has assured him unequivocally that the check valve was closed. It is neither the workman's responsibility to know when a valve is open or closed not to know

the function of the numerous valves in the engine room of a ship on which they are temporarily working. It was their responsibility to repair the valve and replace it on the auxiliary feed line and they did this. One of the workmen testified that the valve had to be open when it was installed. Shipyard workers are not in the same category as members of the crew who work in the engine room and are subordinate to the officer on watch.

Hence, it was Appellant's personal responsibility to be certain that at least either the stop valve or the check valve was tightly closed before letting the hot water into the auxiliary line. He was on watch specifically to keep the boilers in proper operating condition and related matters as well as to supervise the repair work to the starboard boiler. Since Appellant should not have relied on the word of the shipyard workers that the check valve was closed, it was clearly negligent for him to have assumed that the stop valve was closed, it was clearly negligent for him to have assumed that the stop valve was closed on the basis that the Third Mate had, at some earlier time on that day, told Appellant it was closed (R.77). Appellant should have personally inspected both valves when he was close to them questioning the two men who had just replaced the check valve. Regardless of the position of the check valve, the stop valve should have been closed at all times until the newly repaired check valve could be tested after installation. The fact that Appellant knew workmen were in the starboard steam drum from time to time is all the more reason why extreme care was required on his part.

Considering the extent of Appellant's lack of prudence under the prevailing circumstances, the order of suspension on probation was lenient.

*ORDER*

The order of the Examiner dated at San Francisco, California, on 10 April 1963, is AFFIRMED.

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

Signed at Washington, D. C., this 10th day of September 1963.

\*\*\*\*\* END OF DECISION NO. 1413 \*\*\*\*\*

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