

In the Matter of License No. 43979
Issued to: PAUL R. BLADES

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

627

PAUL R. BLADES

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

On 28 August, 1952, an Examiner of the United States Coast Guard at Houston, Texas, suspended License No. 43979 issued to Paul R. Blades upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as First Assistant Engineer on board the USNS MISSION SAN RAFAEL under authority of the document above described, on or about 20 August, 1952, while said vessel was discharging her cargo in the port of Texas City, Texas, he stopped the vessel's cargo pumps without proper authority, he failed to close the proper valves, and failed to notify the dock authorities or the Chief Officer (First Specification); and he failed to obey a lawful order by the Chief Officer from the Master to restart the cargo pumps (Second Specification).

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by a patrolman and two officers of the local union of the Masters,

Mates and Pilots Association at Galveston, Texas. Appellant entered a plea of "not guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of the Master, Chief Officer, Chief Engineer and Third Mate.

In defense, Appellant offered in evidence the testimony of Mr. Kertell and Mr. Jones, the two union officers representing him. They had been on board the ship at the time the pumps were stopped or shortly prior to that time.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel, the Examiner announced his findings and concluded that the charge had been proved by proof of the specifications. He then entered the order suspending Appellant's License No. 43979, and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of six months - two months outright and the balance of four months on twelve months probation.

From that order, this appeal has been taken, and it is urged that no danger was caused to the vessel by the cargo pumps being shut down; and Appellant knew that the Chief Officer had been notified by Mr. Kertell, the local Business Manager of the Masters, Mates and Pilots Association, that the cargo pumps would be secured.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 20 August, 1952, Appellant was serving as First Assistant Engineer on board the USNS MISSION SAN RAFAEL, a tanker, and acting under authority of his License No. 43979 pursuant to Shipping Articles for a foreign voyage. On this date, the ship was discharging a cargo of fuel at Texas City, Texas.

At approximately 1930 on 20 August, 1952, three representatives of the Galveston local union of the Masters, Mates and Pilots Association came on board and discussed the hiring of a night mate with the Chief Officer. The Master and Chief Engineer were ashore. When the Chief Officer refused to employ a night mate, Mr. Kertell told the Chief Officer that the pumps would be shut down. Mr. Kertell then went to see Appellant and, at about 2015, Appellant stopped the cargo pumps by pulling the switch in the engine room. Appellant took this action without consulting the Chief Officer or any of the ship's officers. The Chief Officer and Third Mate closed the tank valves on deck as soon as they realized that the pumps had been shut off. The Chief Officer contacted the Master by telephone and relayed his order to Appellant to restart the cargo pumps. Appellant refused to obey the order on the ground that there was a strike and the ship was being picketed because of the failure to employ a night mate. The pumps were not started again until about fifteen minutes after the Chief Engineer returned to the ship at approximately 2330 and received orders from the Chief Officer to restart the pumps. It was the duty of the engineers to keep the pumps running except in case of mechanical trouble or on orders from the Chief Officer. Closing the tank valves on the ship and notifying the dock authorities was ordinarily the responsibility of the deck personnel.

OPINION

In the absence of the Master, the Chief Officer was in command of the ship and Appellant was bound to submit to his authority in any matters pertaining to the operation of the ship. This is true regardless of any issue as to whether danger to the vessel was caused by Appellant's conduct. Although there was no danger, there was certainly some material loss resulting from the three and a half hour delay precipitated by Appellant's behavior.

In addition to the authority of the Chief Officer, Appellant had signed Shipping Articles which took predominance over any labor dispute and bound him, to an even greater degree, to comply with the strict standards of discipline required on board ship. In the case of *Rees v. United States* (C.C.A. 4, 1938), 95 F. 2d 784, the court stated that "when articles are signed by a crew for a voyage a contract is made, binding both owner and

seaman, . . . and should be lived up to scrupulously." Thus, Appellant was required to faithfully carry out his duties as First Assistant Engineer and to obey all lawful orders given to him by those in command.

Since it was primarily the responsibility of the Chief Officer to close the deck tank valves and to notify the dock authorities when the pumps were stopped, and in view of Appellant's clear record while sailing as a licensed officer, the order of the Examiner dated at Houston, Texas, on 28 August, 1952, is modified as follows:

ORDER

License No. 43979, and all other licenses, certificates of service and documents issued to Appellant, are suspended for a period of six (6) months. The suspension ordered shall not be effective provided no charge under R.S. 4450, as amended (46 U.S.C. 239), is proved against Appellant for acts committed within twelve (12) months of 28 August, 1952.

As so modified, the Order of the Examiner is AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 26th day of February, 1953.

***** END OF DECISION NO. 627 *****

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