

In the Matter of License No. 13881
Issued to: PETTER BJONNES

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

667

PETTER BJONNES

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 22 October, 1952, an Examiner of the United States Coast Guard at New York, New York, suspended License No. 13881 issued to Petter Bjonnes upon finding him guilty of negligence based upon a specification alleging in substance that while serving as pilot on board the American SS GULFMOON under authority of the document above described, on or about 27 July, 1952, he negligently anchored said vessel in an area where submarine pipeline work was being done in New York Harbor, causing damage to this work.

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 an attorney of his own selection and he entered a plea of "not guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of three witnesses including the Master of the GULFMOON.

In defense, Appellant offered in evidence the testimony of four other witnesses as well as testifying in his own behalf.

At the conclusion of the hearing, having given both parties an opportunity to submit argument and having ruled on Appellant's proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification. He then entered the order suspending Appellant's License No. 13881, with its pilotage endorsement, for a period of two months after the surrender of said license.

From that order, this appeal has been taken, and it is urged that it was impossible to ascertain the location of the range lights and they were not maintained at the proper heights; failure to produce a section of pipe which was raised with the anchor is prejudicial to Appellant; the bearings taken lead to the conclusion that the GULFMOON anchored west of the point of damage to the pipeline; the charge and specification were not proven by competent, probative and substantial evidence; and the evidence excludes any conclusion other than that Appellant was not negligent and the charge should be dismissed.

APPEARANCES: Messrs. Higgins and Parness, of New York City, For Appellant.

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

FINDINGS OF FACT

On 27 July, 1952, Appellant was serving as pilot on board the American SS GULFMOON and acting under authority of his License No. 13881 while the ship was approaching The Narrows in New York Harbor from seaward.

A pipeline was being laid across The Narrows between Staten Island and Brooklyn. On 25 April, 1952, and on six subsequent dates prior to 27 July, 1952, Notices to Mariners were published which contained information concerning this project; and each such notice included information about the pipeline range markers on

both the Staten Island and Brooklyn sides of The Narrows.

Although Appellant knew about this construction work and the range markers, he conned the ship up The Narrows and dropped the anchor in the immediate vicinity of the pipeline without consulting a chart, observing the range markers, or ascertaining the position of the ship by means of other bearings. The ship was anchored about 800 yards off Staten Island. A launch approached and ordered Appellant to move the ship. Appellant then looked towards Staten Island and saw the pipeline range lights which were clear of any obstructions. The anchor was caught and it required about an hour of maneuvering the ship to free the anchor. At this time, it was noticed that the pipeline on the Brooklyn shore was moving. When the anchor of the GULFMOON was raised, a five-foot length of pipe was removed from it. This pipe was about 2 inches in diameter while that which was used for the new pipeline was 24 inches in diameter.

Later in the day, the pipeline was inspected. At about the point where Appellant had given the order to anchor the GULFMOON, the pipeline was bent in a northerly direction with creases and marks on its southerly side; and it had been moved about 90 feet north of its original position. There is no evidence that any other ship was anchored in this area at the times involved.

Appellant's prior record consists of a probationary suspension in 1945 for proceeding at an excessive rate of speed in fog.

OPINION

The points raised on appeal are not supported by the evidence which discloses that the range lights were not obscured; the piece of pipe caught in the anchor was too small to have caused the difficulty which was encountered raising the GULFMOON's anchor; and the exact position of the GULFMOON while anchored was not determined by those on board the ship. Therefore, I conclude that the anchor of the GULFMOON caused the damage to the pipeline and this resulted from Appellant's negligence. This is the only logical inference which can be drawn from the facts.

Many Notices to Mariners were issued about this construction work. Appellant testified that he could not see the range lights

before anchoring because they were obscured. But the great weight of the evidence is to the contrary. Appellant's failure to observe the lights while approaching the pipeline area is accounted for by the statement in the Notices to Mariners that the lighted range markers are "visible on the range line only." Hence, the ship proceeded some distance farther after the anchor was released so that she was in the pipeline area when Appellant observed the Staten Island range lights.

ORDER

The Order of the Examiner dated at New York, New York, on 22 October, 1952, is AFFIRMED.

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

Dated at Washington, D. C., this 12th day of June, 1953.

***** END OF DECISION NO. 667 *****

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