

In the Matter of License No. 49208 and Merchant Mariner's
Document No. Z-85424
Issued to: ALONZO L. HODGDON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

655

ALONZO L. HODGDON

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 September, 1952, an Examiner of the United States Coast Guard at Boston, Massachusetts, suspended License No. 49208 and Merchant Mariner's Document No. Z-85424 issued to Alonzo L. Hodgdon upon finding him guilty of negligence based upon three specifications alleging in substance that while serving as pilot on board the American SS VENTURA under authority of the license above described, on or about 28 November, 1951, while said vessel was overtaking the trawler LYNN in the approaches to Boston Harbor, he failed to observe his duty to keep clear of the LYNN (First specification); he wrongfully approached dangerously close to the LYNN before sounding a passing signal (Second Specification); and he unlawfully attempted to pass the LYNN without having received an assenting signal from her (Third 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. By agreement of all parties

concerned, this hearing was conducted jointly with that of the Master of the VENTURA, Sverre O. Pedersen. Appellant was represented by attorneys of his own choice who also represented Captain Pedersen. 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 Appellant reserved the right to make an opening statement later if considered necessary.

The Investigating Officer introduced in evidence the testimony of the Master and helmsman of the LYNN, and several documentary exhibits. The testimony of Appellant, Captain Pedersen, the Chief Mate and helmsman of the VENTURA, all of whose testimony was taken before the Marine Board of Investigation, was stipulated in evidence. No additional evidence was offered in behalf of Appellant or Captain Pedersen.

At the conclusion of the hearing, having heard the arguments of the Investigating Officer and Appellant's counsel and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the three specifications. He then entered the order suspending Appellant's License No. 49208, Merchant Mariner's Document No. Z-85424 and all valid licenses issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of eight months - four months outright suspension and four months probationary suspension for one year from 4 January, 1953.

From that order, this appeal has been taken, and it is urged that:

"At approximately 1725, I blew 2 blasts on the `Venture's' whistle, and put her helm hard to port. At that time, even assuming, as the Examining Officer found, that there was only 200 yards between the `Ventura's' bow and the `Lynn's' stern, an assumption I do not share in, there was ample time and ample room to pass to port of the `Lynn'. I say this because at the time of the collision, the tide was slack, and thus had no effect on the turning ability of the `Ventura', and the ship itself

was fairly deep in ballast, drawing 20 feet forward and 21 feet aft, and was going approximately 13 knots; and thus responded immediately to any, even slight, change of her helm. However, when Captain Pedersen rushed onto the bridge and without warning, at approximately 1725.15, threw the ship's engine in reverse, this immediately destroyed the steering control of the `Ventura`, and also, since the `Ventura` is a T-2 Tanker, caused her stern to swing to port rather than to starboard, and her bow to swing down against the `Lynn`, and rolled her over.

"Further proof of my contention is the fact that the bow of the `Ventura` did not cut into the `Lynn's` stern, but in swinging to starboard, rolled the `Lynn` over, something which could not have happened if the `Ventura's` stern was swinging to starboard.

"Consequently, since Captain Pedersen put the `Ventura` astern, and since in my opinion if the `Ventura's` engine had not been put astern the accident would never have occurred, I believe that the Examining officer has unjustly penalized me for not complying with the rules of the road, by suspending my license for eight months, for an accident which happened, in my opinion, solely because of Captain Pedersen's action.

"I would also like to bring out that after Captain Pedersen took charge of the `Ventura` Approximately three minutes before the collision, the ship was out of my command, and at this time, the `Lynn` was approximately two points off the `Ventura's` starboard bow, and the `Ventura` was just starting to swing to port in answer to hard left rudder."

APPEARANCES: Messrs. Messrs. Joseph M. Brush of New York City, Thomas H. Walsh of Boston, Leo F. Glynn of Boston, and Lionel P. Marks of New York City, of Counsel.

Based upon my examination of the record submitted, I hereby make my Findings of Fact which are identical to those of the Examiner except for a few minor modifications, additions, and deletions.

FINDINGS OF FACT

"On 28 November, 1951, Alonzo L. Hodgdon was serving under the authority of his License No. 49208 as pilot aboard the American SS VENTURA, a C-2 type turbo-electric driven tanker, which in the late afternoon of that day was standing out of Boston Harbor. After 1630, when the VENTURA'S tug and docking master departed, the person charged had the conn. The VENTURA was in ballast and was drawing 20 feet forward and 21 feet aft.

"After the person charged took over, the vessel proceeded out of the channel on slow and 1/2 ahead bells and at 1703 as she approached Deer Island Light the Master left her bridge for supper. At 1713, when the VENTURA was abeam Deer Island Light, the person charged put her on full speed ahead and proceeded out the North Channel on a course of 029/d/ true.

"As the VENTURA proceeded into the north Channel, at 1715, she had three vessels which have been described as beam trawlers ahead of her, two of which the VENTURA passed in the channel. The third vessel, subsequently identified as the Trawler LYNN, a steel hull beam trawler, 102 feet long, was proceeding out the North Channel about 3/4 of a mile ahead of the VENTURA and on approximately the same course. The LYNN was traveling at a speed of approximately 8-1/2 knots, whereas the VENTURA was traveling at a speed of approximately 13 knots.

"After the LYNN cleared North Channel Buoy No. 1, she immediately swung over to a course of approximately 066/d/ true steering on Graves Light whistle Buoy No. 5. By the time the VENTURA was abeam North Channel Buoy No. 1 at 1722 the distance separating her from the LYNN had been reduced to a half mile.

"The VENTURA continued on beyond North Channel Buoy No. 1 for a short distance before coming right to 068° true. VENTURA had just steadied on 068° true when her Master returned to the bridge. The LYNN was then slightly on the starboard bow of the VENTURA and less than a half mile ahead.

"The vessels proceeded at unchanged speeds with the VENTURA overtaking, but since the LYNN was attempting to keep Graves Light

Whistle Buoy No. 5 on her starboard bow, the courses of the two vessels were converging slightly.

"No signals of any kind were given by either vessel and no significant change in either the speed or the course of either vessel was made until the distance separating them at 1725 was about 250 yards with the LYNN still slightly on the starboard bow of the VENTURA. At that time, when it was apparent that the vessels were converging and that the passage would be close, the person charged gave a two-blast whistle signal and the LYNN altered her course to port. Captain Hodgdon ordered left full rudder. The VENTURA had had no indication that the LYNN had sighted her and no signal was given by the LYNN in answer to the two-blast signal.

"After the person charged ordered left full rudder the Master of the VENTURA at 1725 himself rang up 'stop the engines' followed by 'slow astern,' 'half astern' and at 1725-1/2 'full astern.' These engineroom orders were duly complied with but two minutes later the vessels collided with the bow of the VENTURA striking the LYNN on her port quarter. The collision occurred in a location identified as 42° 22' 27" North, 70° 54' 8" West. No signals other than the aforementioned two-blast whistle signal were given before the contact. By the time of the collision the speed of the VENTURA, whose engines by that time were at full astern, had been reduced to approximately 8 knots.

"The effect of the contact between the two vessels was to gradually press down the LYNN and finally roll her over on her starboard side. She foundered very shortly after the VENTURA had passed clear of her. Of a complement of 17 men aboard the LYNN there were only two survivors; namely, the master who at the time of the collision was in the wheelhouse and the helmsman. There was no substantial damage to the VENTURA.

"Throughout the passage out the North Channel and up to the point of the collision the VENTURA was overtaking the LYNN within the meaning of the Inland rules to prevent collisions of vessels (33 USC 209). The collision occurred on the inland waters of the United States as defined by 33 CFR 82.

"At all times leading up to the instant of the collision visibility was excellent and the sea was moderate. The tide was at

slack water. The Trawler LYNN was well lighted and was at all times until just before the collision, when she disappeared under the bow of the VENTURA, well in sight of the person charged on the bridge of the VENTURA.

"The person charged was serving under the 9th issue of his master's license and throughout this lengthy period has sailed constantly as either a master or a pilot. He has pilotage for practically all waters on the East and Gulf Coasts. He has no record of previous negligence, incompetence or misconduct."

OPINION

Appellant has raised no point on appeal which makes it necessary for me to add to the well reasoned decision of the Examiner. I simply wish to emphasize the statement that this case concerns only the issue of negligence on the part of Appellant and the determination of this question is not dependent upon whether the Master of the LYNN was at fault for altering her course to port at 1725.

The VENTURA was clearly an overtaking vessel with respect to the LYNN (33 U.S.C. 209). Therefore, the VENTURA was legally obligated to keep out of the way of the LYNN (33 U.S.C. 208), to sound a whistle signal when still at a safe distance from the LYNN (33 C.F.R. 80.3, 33 U.S.C. 203, Rule VIII), and to wait until the LYNN replied with the same signal before attempting to pass her (33 U.S.C. 203, Rule VIII).

The facts disclose that Appellant was in charge of the navigation of the VENTURA and that he maneuvered her into a position where risk of collision existed prior to the sounding of the two-blast signal which occurred before the times when the LYNN altered course and the Master of the VENTURA interfered with the navigation of the vessel by Appellant.

ORDER

The Order of the Examiner dated at Boston, Massachusetts, on 22 September, 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. 655 *****

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