

In the Matter of License No. 156279  
Issued to: OWEN T. F. RUCKER

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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OWEN T. F. RUCKER

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 131.11-1.

By order dated 16 January 1956, an Examiner of the United States Coast Guard at New Orleans, Louisiana, suspended License No. 156279 issued to Owen T. F. Rucker upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as Pilot on board the American M/V JOSEPH BISSO under authority of the license above described, on or about 8 January 1956, he was unable to perform his duties by reason of intoxication.

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 nonprofessional counsel of his own choice. When Appellant entered a qualified plea of "guilty" to the charge and specification proffered against him, the Examiner changed the plea to "not guilty."

Thereupon, the Investigating Officer made his opening statement and introduced in evidence the testimony of several witnesses. It was stipulated that the supervisor of the operations of the Napoleon Avenue Ferry would have testified that Appellant is considered to be a well qualified, experienced and capable pilot; and that the company operators desired to retain Appellant in their service.

In defense, Appellant commenced to testify in his behalf. He then changed his plea to an unqualified one of "guilty." Appellant persisted in this change of plea when questioned by the Examiner.

The Examiner announced his decision and concluded that the charge and specification had been proved by plea. He then entered the order suspending Appellant's License No. 156279 for a period of eighteen months - six months outright suspension and twelve months suspension on probation until twenty-four months after the

termination of the outright suspension.

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

#### FINDINGS OF FACT

On the afternoon and evening of 8 January 1956, Appellant was serving as Pilot on board the American M/V JOSEPH BISSO, Napoleon Avenue Ferry, and acting under authority of his License No. 156279 while the ferryboat was navigating on the Mississippi River between New Orleans and Marrero, Louisiana.

At about 1700 on the evening of this date, the engineer of the JOSEPH BISSO was in the wheelhouse performing some of Appellant's duties including handling the wheel of the vessel. A passenger observed that the vessel was being recklessly handled in maneuvering for a landing on the New Orleans side of the river. Immediately after landing, this passenger proceeded into the city of New Orleans and notified the police as to the manner in which the Napoleon Avenue ferryboat was being navigated.

Two members of the New Orleans Police Department met the vessel upon her return trip to New Orleans at about 1800. The policemen went to the wheelhouse where they found Appellant and the engineer of the ferryboat. The latter was holding an open bottle which was in a paper bag and partially filled with wine. He was relieved of the bottle by one of the policemen. Since Appellant was intoxicated, he was removed from the vessel and arrested on a charge of drunkenness. Appellant was still under the influence of intoxicants later that evening while he was in jail during the mandatory six-hour waiting period. At this time, Appellant admitted ownership of the bottle which had been taken from the engineer.

Appellant's prior record is excellent. He has held a federally issued pilot's license for 25 year without a prior blemish on it. He is considered to be a very capable Mississippi River pilot. The operators of the Napoleon Avenue Ferry expressed the desire to retain Appellant's services despite this incident.

#### BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant states that the order is too severe in view of his long, clear record; his intoxication did not lead to any injury to persons or property; various newspapers have adversely affected Appellant's reputation by printing accounts of the incident which greatly exaggerated the facts; and Appellant's sole livelihood for

the past 25 years has been serving on vessels.

In conclusion, Appellant prays consideration be given to the imposition of a long probationary suspension in lieu of the six months outright suspension.

OPINION

Although Appellant's intoxication did not result in any injuries to persons or damage to property, it is clear that it was a very serious offense to be intoxicated while serving as Pilot of a ferryboat making trips across the Mississippi River in the vicinity of the busy harbor of New Orleans. With the use of his faculties materially impaired by intoxicants, Appellant was in no condition to avoid vessels or cope with dangers to navigation which might arise. Thus, Appellant not only exposed his passengers, who depended upon the ferryboat as a public service, to an extremely dangerous and unnecessary risk; but he also exposed the ferryboat, her crew, and other persons and property to an equally hazardous situation.

For the above reasons, I do not think that the order imposed is too severe notwithstanding Appellant's prior fine record. The Examiner considered the latter and other mitigating circumstances before imposing his order. It is unfortunate that this suspension will deprive Appellant of his only livelihood for a period of six months. But this aspect of the matter and the fact that newspaper articles have affected Appellant are relatively immaterial to the purpose of these proceedings which is to protect life and property by taking remedial action against seamen who have not properly performed their duties.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 16 January 1956, is AFFIRMED.

A. C. Richmond  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 24th day of April, 1956.