

In the Matter of License No. 154900  
Issued to: LINUS SEELEE JELLISON

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

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LINUS SEELEE JELLISON

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.

By order dated 30 March 1956, an Examiner of the United States Coast Guard at San Francisco, California, suspended License No. 154900 issued to Linus Seelee Jellison upon finding him guilty of negligence. The specification alleges in substance that while serving as Master on board the American SS MARINE SNAPPER under authority of the license above described, on or about 6 June 1955, while Appellant was conning said vessel outbound from San Francisco in a dense fog, he contributed to a collision between the SS MARINE SNAPPER and the inbound SS L. P. ST. CLAIR by:

- (a) Failing to stop the engines of his vessel and determine the position of the other vessel upon hearing her fog signal in an unascertained position forward of the beam of the MARINE SNAPPER.
- (b) Proceeding at an immoderate speed with respect to the limited visibility and the proximity of the ST. CLAIR.
- (c) Failing to ascertain the course, speed and maneuvering of the ST. CLAIR and to navigate the MARINE SNAPPER accordingly.

By stipulation, the parties agreed to waive opening statement, waive the arraignment, enter a plea of not guilty on behalf of Appellant, receive the entire record of the preliminary investigation in evidence, and consider service on Appellant's counsel as delivery to Appellant. Both parties rested without submitting further evidence.

At the conclusion of the hearing, having heard the oral 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 decision and concluded that the charge and entire specification had been proved. He then

entered the order suspending Appellant's License No. 154900 for a period of six months.

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

#### FINDINGS OF FACT

On 6 June 1955, Appellant was serving as Master on board the American SS MARINE SNAPPER and acting under authority of his License No. 154900 when his ship collided with the American SS L. P. ST. CLAIR at a point between one-half and three-quarters of a mile in a northwesterly direction from the seaward end of the marked San Francisco Main Ship Channel. The collision occurred at 1012 in a patchy fog which limited the visibility to less than a mile in the vicinity of the casualty. The bow of the ST. CLAIR penetrated approximately twenty feet into the port side of the MARINE SNAPPER just aft of the forecastle head at an angle of ninety degrees. The latter vessel was nearly dead in the water at the time of impact. The estimated damage to the two vessels was 225,000. No one was injured on either vessel except for one seaman who twisted an ankle.

The MARINE SNAPPER is a C-4 type vessel, 522 feet in length and 10,662 gross tons. She was outbound from San Francisco enroute to Seattle with a light load of 2135 tons of general cargo. Her draft was 13 feet, 4 inches forward and 25 feet, 4 inches aft. The vessel was equipped with radar which was in good working condition and in operation at all pertinent times.

The ST. CLAIR is a tanker, 463 feet in length and 8,066 gross tons. She was proceeding toward the San Francisco Main Ship Channel on course 120 degrees true, speed 12 knots, until four minutes before the collision occurred. The vessel was not loaded and ballast had been pumped. Consequently, her draft was only 3 feet forward and 17 feet, 6 inches aft.

Appellant was at the conn of the MARINE SNAPPER as she approached the Main Ship Channel on course 245 degrees true at full speed of 16 knots. The channel is marked by four pairs of buoys and extends for a distance of more than two miles. It starts about six miles beyond the Golden Gate Bridge and is in waters where the International Rules of the Road apply.

Because of the foggy condition, the MARINE SNAPPER was sounding fog signals and a lookout was posted on the bow. The Chief Mate maintained a watch on the radar. Approaching buoy No. 7, Appellant ordered a change of course to 252 degrees true in order to remain outside of the channel to the north and pass the buoys close aboard to port. Buoy No. 7 was abeam at 1001 when the Chief Mate reported an inbound vessel to seaward of the marked channel. Speed remained at full ahead of 16 knots.

Subsequently, the Chief Mate plotted, on the radarscope, sufficient additional ranges and bearings of the inbound vessel to accurately estimate that her course was 120 degrees true and speed 10 to 12 knots. This was reported to Appellant prior to 1008. The vessel represented by the pip on the radarscope was later identified as the ST. CLAIR.

Course was changed to 250 when abeam of buoy No. 5 at 1004 and to 245 at buoy No. 3. At 1008, the ship was between buoys No. 3 and 1 when the Chief Mate reported to the Master that the ST. CLAIR was bearing 282 true, distance 1.7 miles.

At 1009, Appellant ordered a change of course to 303 true just before buoy No. 1 would have been abeam to port. The helmsman permitted the ship to swing right to 321 true and had brought her heading back to approximately 310 true by the time of collision. At 1010, the ship was still turning to the right and passing 303 true when the Chief Mate reported that the ST. CLAIR was bearing 287 true at a distance of 1 mile. This was the last range and bearing obtained of the ST. CLAIR.

When the MARINE SNAPPER was on course 321 true at 1010 1/2, Appellant observed the ST. CLAIR's lower hull structure through the fog at a distance of about one-half mile and three points on the port bow of the MARINE SNAPPER. He also heard the fog signal of the ST. CLAIR at this time. Appellant thought he saw the port side of the other vessel and that she was still on course 120 true. In fact, the ST. CLAIR had been changing course to her left since 1008, so Appellant saw her starboard rather than her port side. When Appellant realize this at 1011, he ordered full astern and hard right under, then immediately ordered the rudder shifted to hard left. The engine order was promptly executed and considerably slowed the vessel before the impact at 1012. The rudder action had little or no effect on the ship's heading.

As stated above, the ST. CLAIR was on course 120 degrees true making 12 knots until 1008. The image of the MARINE SNAPPER on the radarscope was kept under observation as she moved along the outside of the channel. At 1008, the Master of the ST. CLAIR ordered half left rudder and reduced speed to slow ahead in order to leave the area in the vicinity of the channel entrance open to the MARINE SNAPPER. When the fog signal of the latter vessel was heard at 1010, the Master of the ST. CLAIR ordered hard left rudder and full ahead in order to cross the bow of the MARINE SNAPPER and get out of her way. At 1011, the other vessel was sighted and the ST. CLAIR's engines were ordered full astern. The vessel had swung left to a heading of about 040 true by the time of the collision at 1012. Both vessels returned to San Francisco for repairs.

## BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that the evidentiary findings of fact set forth in the Examiner's decision do not support the ultimate conclusions of the Examiner for the following reasons:

POINT A. Appellant was not required to stop the engines of his vessel, as alleged in the specification, because there is no evidentiary findings of fact by the Examiner, or evidence in the record, that fog signals of the ST. CLAIR were heard on the MARINE SNAPPER before the former vessel was sighted by Appellant. The latter's testimony was that he heard the other ship's whistle and saw her at approximately the same time; and that no fog signals were reported to him prior to this time.

POINT B. Appellant was not guilty of permitting his vessel to proceed at an immoderate speed in fog. Any speed is moderate if the vessel in question can stop within one-half the distance of visibility. Hence, the determination as to whether speed is moderate depends upon two factors: the extent of visibility and the stopping ability of the ship.

1. Visibility. The testimony shows that the distance of visibility in the patchy fog in the area of the collision varied between one and three miles.

2. Stopping ability of the MARINE SNAPPER. Appellant's uncontradicted testimony was that during an earlier test this ship had been brought to a stop from full speed ahead in 1 1/2 minutes when lightly loaded as at the time in question.

3. Application of the Rule. While proceeding at 16 knots, the MARINE SNAPPER could be brought to a dead stop in the water in 1 1/2 minutes and in less than one-half mile. Hence, she could be stopped within one-half the minimum visibility of one mile at all times. This statement is supported by the evidence that the ship was nearly dead in the water, at the time of the collision, after Appellant had ordered full astern a minute before the casualty occurred.

POINT C. The evidence conclusively establishes, and the Examiner so found, that the radar was skillfully utilized to accurately determine that the course of the ST. CLAIR was 120 degrees true and her speed was 12 knots prior to 1008. A Master is not required to be omniscient.

POINT D. The six months suspension is excessive as compared to the three months suspension imposed against the license of the Master of the ST. CLAIR. Although the Examiner concluded that the two men were equally at fault, he suspended Appellant's license for six months because of a prior probationary suspension against Appellant's license in 1954 for failing to stop the engines of his vessel when the fog signal of another vessel was reported forward of the beam and for failing to navigate with caution prior to the resulting collision. The Master of the ST. CLAIR has an unblemished record but Appellant has been sailing as a Master for two and one-half times as many years as the Master of the ST. CLAIR. The latter factor should be given consideration.

In conclusion, Appellant states that the testimony and evidentiary findings of fact reveal that Appellant was navigating his vessel in strict compliance with the International Rules of the Road. For the above reasons, it is respectfully submitted that the Examiner's decision should be reversed.

APPEARANCES: Messrs. Lillick, Geary, Wheat, Adams and Charles of San Francisco, by Willard G. Gilson, Esquire, of Counsel.

#### OPINION

Navigation in fog on the high seas is governed by Rule 16 of the International Rules of the Road (33 U.S.C. 145n). The slightly revised wording of the rule which became effective on 1 January 1954 reads as follows:

"(a) Every vessel, or seaplane when taxiing, on the water, shall, in fog, mist, falling snow, heavy rainstorms or any other condition similarly restricting visibility, go at a moderate speed, having careful regard to the existing circumstances and conditions.

"(b) A power-driven vessel hearing, apparently forward of her beam, the fog-signal of a vessel the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over."

#### POINT A

It has been stated repeatedly that the command to stop the vessel's engines is imperative when the conditions described in the above Rule 16(b) confront the navigator. See Appeal No. 728, p. 8, citing various authorities. But in the case presently under

consideration, it does not appear that Appellant was bound by this rule. Appellant and several other witnesses testified that they did not hear any fog signals from the direction of the ST. CLAIR during the time leading up to the casualty and prior to seeing her. The lookout testified that he heard a fog signal on the port bow some minutes prior to the accident and reported it to the bridge by telephone. But this was when the MARINE SNAPPER was on a course between 245 and 250 degrees true and the ST. CLAIR was on the starboard bow of the MARINE SNAPPER. Possibly, this signal was coming from the San Francisco Lightship which was then on the port bow of Appellant's vessel.

Appellant is correct in his statement that the Examiner did not make any evidentiary finding of fact that fog signals of the ST. CLAIR were heard on the MARINE SNAPPER and that there is no substantial evidence to support such a finding. Hence, the ultimate finding and conclusion that part (a) of the specification was proved are reversed and that portion of the specification is dismissed.

#### POINT C

Appellant is also correct in stating that the radar was used to estimate correctly the course and speed of the other ship. By means of marking the momentary positions of the pip (which represented the ST. CLAIR) on the radarscope with a grease pencil and noting the times of these marks, the Chief Mate was able to obtain an estimate which was very close to the actual course and speed of the ST. CLAIR. Although the better procedure would have been to plot these ranges and bearings on a separate plotting board and convert them from relative movement to the true course and speed of the other ship, it cannot be denied that the Chief Mate's estimate was accurate regardless of the method employed.

As to determining with any degree of accuracy the ST. CLAIR's course and speed after 1008, this could not have been done very well from a plot based on ranges and bearings from the radar because of lack of sufficient time and because both vessels made substantial changes in course and speed between 1008 and the time of collision (1012). The other ship was under visual observation before Appellant's ship was steady on her new course.

So far as part (c) of the specification was intended to pertain to other aspects than the utilization of the information available from the radar, this is adequately covered by part (b) of the specification. Therefore, the ultimate finding and conclusion with respect to part (c) of the specification are reversed and such part of the specification is dismissed.

POINT B

I do not agree with Appellant's contention that the speed of a vessel is always "moderate" so long as she can be stopped dead in the water within one-half the distance of visibility. Depending upon the circumstances there are some cases, such as The Chicago - Silverpalm (C.C.A.9, 1937), 94 F2d 754, cert. den. 304 U.S.576) which apply this mechanical test in order to determine whether a given rate of speed is moderate or excessive. Another test of the same nature is that a vessel must be able to stop before colliding with another vessel which has been sighted, provided such approaching vessel is going at a moderate speed. The Umbria (1897), 166 U.S. 404; The Nacoochee (1890), 137 U.S. 330. But the controlling factor in every case depends upon the "existing circumstances and conditions." Rule 16(a).

Appellant knew that he was approaching another vessel in patchy fog which considerably limited the visibility at times. Appellant could only guess what the intention of the Master of the ST. CLAIR was with respect to his course and speed as his ship drew closer to the channel entrance. Nevertheless, Appellant continued on at full speed even while changing course to the right. Beyond this point, there was little possibility of obtaining an accurate estimate of the course and speed of the other vessel from the radar information. The Chief Mate reported the distance to the ST. CLAIR as 1.7 miles at 1008 and 1 mile at 1010. Hence, the two ships were blindly approaching each other at the rate of about 21 knots after the time when they commenced turning. At the time, if not earlier, it is my opinion that Appellant was proceeding at an immoderate speed in fog under the prevailing circumstances.

In addition to the fact that Appellant was proceeding at full speed of 16 knots in fog under unfavorable circumstances, his negligence is emphasized by the fact that the courts have held that moderate speed in fog is "something materially less than that full speed which is customary and allowable when there are no obstructions in the way of safe navigation." The City of New York (D.C.N.Y., 1883), 15 Fed. 624.

As the two ships came closer together after the Chief Mate's report at 1010 that the range was 1 mile, Appellant still maintained full speed. It is evident from a reconstructed plot of the locations of the vessels at different times that the ranges given by the Chief Mate were excessive to some extent. The distance between the two ships at 1010 could not have been more than approximately .7 mile or they would not have collided as early as two minutes later, since the closing rate of speed until 1012 was no greater than the earlier closing rate which was 21 knots. This determination is based on the difference in range of .7 mile

between the two minutes from 1008 to 1010. Consequently, the distance of visibility was not more than one-half mile when Appellant sighted the ST. CLAIR at 1010 1/2.

The established physical facts shown by a plot of the various positions of the two ships refute the testimony that the distance of visibility was between one and three miles. The fact that Appellant could not see the other vessel at a greater distance than one-half mile, and then not clearly enough to determine immediately that she was changing course, makes it all the more obvious that the speed of Appellant's ship was excessive when he continued at 16 knots until 1011, as minute before the collision.

The established distance of visibility of one-half mile also discredits Appellant's contention that his ship could be stopped in half the distance of visibility by stopping in less than one-half mile. In any event, this test has little application with respect to determining negligence, or lack of it, in cases where a navigator continues at full speed even after sighting a nearby vessel in poor visibility whose course and intention he is not able to determine immediately with some degree of assurance. In Appellant's case, cautious navigation demanded that he reduce his speed or stop the way of his vessel through the waters as soon as he could. It was a flagrant violation of the rule not to have done so immediately after sighting the ST. CLAIR at such close range.

Despite Appellant's many years of service as a Master, it is my opinion that the suspension imposed is justified on the basis of an almost identical offense of which he was found guilty in 1954. The order of the Examiner will be sustained.

ORDER

The order of the Examiner dated at San Francisco, California, on 30 March 1956, is affirmed.

J. A. Hirshfield  
Rear Admiral, United States Coast Guard  
Acting Commandant

Dated at Washington, D.C., this 22nd day of March, 1957.