

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD vs.
MERCHANT MARINER'S DOCUMENTS NO. Z-574123
LICENSE NO. 424754
Issued to: Tommy E. LONGINO

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

2090

Tommy E. LONGINO

This appeal has been taken in accordance with Title 46 United States Code 214 and Title 46 Code of Federal Regulations 5.30-1.

By order dated 12 January 1976, an Administrative Law Judge of the United States Coast Guard at Houston, Texas, suspended Appellant's seaman documents for one month outright plus one month on three month's probation upon finding him guilty of negligence. The specification found proved alleges that, while serving as a pilot on board the SS CONNECTICUT, being holder of the document and license above captioned, on or about 15 June 1975, Appellant did neglect to take the necessary precautions required by the ordinary practice of seamen (Article 29, Inland Rules of the Road), to wit: attempt to navigate a light vessel in a restricted channel during unfavorable weather, thereby causing a collision with the (LIBERIAN) MV ST PANTELEIMON, in the Houston Ship Channel, at Robertson Terminal, Galena Park, Texas.

At the hearing, Appellant was represented by professional counsel and entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence 12 exhibits and the testimony of four witnesses.

In defense, Appellant offered in evidence the testimony of one witness.

The Administrative Law Judge introduced in evidence six exhibits.

At the end of the hearing, the Judge reserved decision. On 12 January 1976 he issued a written decision in which he concluded that the charge and specification had been proved. He then served a written order on Appellant suspending all licenses, issued to Appellant, for a period of one month outright plus one month on three months' probation.

The entire decision and order was served on 16 January 1976. Appeal was timely filed on 20 July 1976.

FINDINGS OF FACT

On 15 June 1975, Appellant was serving as a pilot on board the SS CONNECTICUT while the ship was underway in the Houston Ship Channel. Appellant is a duly commissioned branch pilot for the Houston Ship Channel and Galveston Bar under the laws of the State of Texas. The SS CONNECTICUT is an American flag tanker engaged in foreign trade. The vessel was in the port of Houston to load a cargo of grain for a foreign voyage to India.

In the Houston Ship Channel, at 1330 on the above date, the SS CONNECTICUT was involved in a collision with the SS PANTELEIMON, a moored vessel.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Administrative Law Judge. Numerous grounds are urged and need not be noted due to the disposition of the case. This decision is based solely upon Appellant's argument that the United States Coast Guard was without statutory authority under 46 U.S.C. 214 to bring suspension and revocation proceedings against the federally issued license of Appellant for acts performed while serving as state pilot on a United States flag vessel under register in state waters.

APPEARANCE: Fulbright and Jaworski, Houston, Texas; Ed Bluestein, Jr., Esq.

OPINION

Appellant argues that R.S. 4442, 46 U.S.C. 214, does not provide the statutory authority for the Coast Guard to administratively proceed against a federally issued license for acts performed while serving as a State Pilot and that, presumably as a consequence, the hearing and its findings are void for lack of jurisdiction.

The Coast Guard has reviewed the recent court decision in Dietze v. Siler, Civil Action No. 75-3501, (E.D. La., 14 June 1976), which is related and has decided that it will not appeal the Dietze decision to a higher court. Therefore, the Coast Guard, in accordance with its policy of uniformity of law enforcement, will follow the Dietze decision not only in the Eastern District of Louisiana but in all districts in those cases involving pilots acting solely under the authority of their state license. Appeal

Decision 2071 (WUESTHOFF).

CONCLUSION

Since the hearing below was brought solely under authority of 46 U.S.C. 214, I find that there was lack of federal jurisdiction to suspended or revoke Appellant's federal licenses.

ORDER

The order of the Administrative Law Judge, dated at Houston, Texas, on 12 January 1976, is VACATED.

E. L. PERRY
Vice Admiral, U. S. Coast Guard
Vice Commandant

Signed at Washington, D. C., this 19th day of Jan. 1977.

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