

In the Matter of Merchant Mariner's Document No. Z-654197 and all
other Seaman Documents
Issued to: WILLIAM SOLIS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1280

WILLIAM SOLIS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 11 April 1960, an Examiner of the United States Coast Guard at Long Beach, California suspended Appellant's seaman documents upon finding him guilty of misconduct. The specification found proved alleges that while serving as an able seaman on board the United States SS PIONEER MOOR under authority of the document above described, on 23 September 1959, Appellant wrongfully created a disturbance on the navigating bridge by tampering with the gyro power failure alarm switch and the wheelhouse overhead light switch while the ship was under way.

At the hearing, Appellant voluntarily elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence the Shipping Articles for the voyage, entries in the Official Logbook with attached statements, and the depositions of the Master, Chief Mate

and Chief Engineer.

In defense, Appellant testified and submitted no other evidence. He repeatedly denied that he touched the gyro alarm and light switches.

At the end of the hearing, the Examiner rendered the decision in which he concluded that the charge and specification had been proved. The Examiner then entered an order suspending all documents, issued to Appellant, for a period of one month outright plus four months on twelve months' probation.

FINDINGS OF FACT

On 23 September 1959, Appellant was serving as an able seaman on board the United States SS PIONEER MOOR and acting under authority of his document while the ship was under way in crowded, restricted waters off the coast of Japan.

Appellant relieved the helmsman about 2000 and steered by telemotor. The only other persons on the navigation bridge were the Master and Third Mate. Since it was raining, these two officers were on the bridge wings most of the time.

Between 2030 and 2130, the gyro power failure alarm was sounded several times and the emergency wheelhouse lights went on once. The switches to activate both of these were on the after bulkhead in the wheelhouse and could be reached by the helmsman while keeping one hand on the wheel. In this manner, Appellant moved the switches to turn on the alarm and the lights.

After the alarm was secured and then went off the second time, a check by the Chief Engineer showed that this was not caused by faulty operation of the equipment. Each time the alarm sounded, the Master or Mate went into the wheelhouse and found that the alarm switch had been turned from the "on" to the "off" position. The alarm stopped when the switch was returned to the "on" position. Prior to the last time the alarm sounded, tape was put on the switch to hold it in the "on" position. When the alarm went off after this was done, the tape was found crumpled on the wheelhouse deck. Although Appellant denied having touched either of the switches, he was relieved by the Master and no similar

incidents occurred.

In the Master's cabin, Appellant reiterated his innocence. He appeared to be emotionally unstable and excited. Appellant was hospitalized at Yokosuka Naval Hospital for psychiatric observation and was discharged about two week later in a "fit for duty" condition.

Appellant has no prior record.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the case should be remanded because Appellant's difficulty with the English language prevented him from properly defending himself by presenting a clear explanation of the incident and also since the lack of defense counsel prevented the presentation of essential evidence.

APPEARANCE: Linsley and Linsley of Long Beach, California,
by Edward G. Linsley, of Counsel

OPINION

At the beginning of the hearing, Appellant expressed his desire to proceed without delay when he was questioned by the Examiner as to whether Appellant desired more time to prepare his defense. Then there were two adjournments which delayed the hearing more than a month. This afforded Appellant additional opportunity to obtain counsel if he had changed his mind. Since Appellant did not at any point express his desire for counsel, the lack of counsel is not a sufficient basis for remanding the case in the absence of some reasonable indication that it can be shown that some person other than Appellant moved the switches in the wheelhouse. I do not think counsel has succeeded in this respect in the face of Appellant's admission that nobody else was in the wheelhouse except himself and, at times, the Master and Third Mate.

The same conclusion is reached with respect to Appellant's difficulty with the English language. Despite the handicap, it is perfectly clear that he did not give any indication to the Master

or at the hearing that he thought another person could have come into the wheelhouse and moved the switches behind Appellant's back. Consequently, the language difficulty would not be a proper basis for remanding the case.

Although there is no apparent motive or reason for Appellant to have set off the alarm and turned on the wheelhouse lights, the evidence is clear that he was the only one in a position to do so. Defective mechanism is ruled out by the tests made by the Chief Engineer and the fact that these incidents did not continue after Appellant was relieved of the helmsman watch. The only reasonable conclusion is that appellant is guilty as alleged.

ORDER

The order of the Examiner dated at Long Beach, California, on 11 April 1960, is AFFIRMED.

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

Signed at Washington, D. C., this 11th day of January 1962.

***** END OF DECISION NO. 1280 *****

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