

In the Matter of License No. 132221 and all other Licenses,
Certificates and Documents
Issued to: CHARLES A. REED

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

878

CHARLES A. REED

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 4 January 1955, an Examiner of the United States Coast Guard at Galveston, Texas, suspended License No. 132221 issued to Charles A. Reed upon finding him guilty of negligence based upon two specifications alleging in substance that while serving as Master on board the American SS VIRGINIA under authority of the license above described, on or about 28 November 1954, while said vessel was enroute from Jacksonville, Florida, to Galveston, Texas, he permitted said vessel to be navigated into dangerous waters by failing to properly plot the morning star sight computed position on the sailing chart in use (First Specification); and he wrongfully suffered said vessel to run aground in the vicinity of ship Shoal Lighthouse (Second 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. Although advised of his right

to be represented by counsel of his own choice, Appellant voluntarily elected to act as his own counsel. He entered a plea "guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement. The Investigating Officer stated that the dangerous situation was created by a 15 mile error in transferring the plotted star sight position from a plotting sheet to U.S.C.&G.S. Chart 1116 (First Specification); Appellant continued on the same course and at the same speed for about 13 minutes after he arrived on the bridge and should have realized that the ship was heading towards nearby shoals in the vicinity of Ship Shoal Lighthouse (Second Specification). Appellant agreed with the matter set forth in the Investigating Officer's opening statement. In view of Appellant's pleas of "guilty," no evidence was introduced by either party.

At the conclusion of the hearing, the Examiner announced his decision and concluded that the charge and two specifications had been proved by plea. He then entered the order suspending Appellant's License No. 132221, and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of three months.

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

FINDINGS OF FACT

On 28 November 1954, Appellant was serving as Master on board the American SS VIRGINIA and acting under authority of his License No.132221 when the ship ran aground near Ship Shoal Lighthouse in the Gulf of Mexico while enroute from Jacksonville, Florida to Galveston, Texas.

Appellant made an error of about 15 miles when he transferred his 0601 star fix from the plotting sheet to U.S.C. & G.S. Chart 1116. As a result of this error, the ship was navigated into dangerous water while on a northwesterly course.

At 0749, the ship ran aground. Appellant had been on the bridge for approximately 13 minutes without either ascertaining the position of his ship or taking other appropriate action.

There is no record of prior action having been taken against Appellant during his eleven years of shipping on American merchant vessels.

BASIC OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the facts alleged do not constitute a failure to use reasonable care under the circumstances; the specifications do not support the charge; and the order is excessive in view of the mitigating circumstances. It is admitted that two-star fix was incorrectly transferred to chart 1116. But it is contended that when Appellant later arrived on the bridge prior to the grounding, he had no reason to suspect that the assumed position, based on the incorrectly transferred position, was incorrect.

APPEARANCE ON APPEAL:/I/Missrs. Lockhart, Watson and Peterson of Galveston, Texas, by Edward W. Watson, Esquire, of Counsel.

OPINION

There is no doubt that Appellant was negligent in carelessly transferring the ship's position from the plotting sheet to the chart. This caused Appellant to navigate the ship on such courses that Ship Shoal Lighthouse, well within the edge of the 10 fathom curve, was sighted when Appellant expected to sight Ship Shoal Lighted Whistle Buoy 15 miles to the south of the lighthouse and on the edge of the 10 fathom curve.

When Appellant was called to the bridge prior to the grounding, there were unidentified objects on the starboard bow. The Chief Mate thought that one of these objects was Ship Shoal Lighthouse. Nevertheless, Appellant did not take any action until it was too late. He should have stopped the ship until her position was ascertained, since the lighthouse is located in shoals. Appellant would have realized his mistake if he had

checked his transferred plotted position before proceeding any farther. In addition, Appellant could have obtained hand lead soundings if the fathometer readings were erratic; and he could have determined by the different light characteristics that Ship Shoal Lighthouse was not the Ship Shoal Lighted Whistle Buoy which he had expected to sight.

Under the circumstances, all of these things were reasonable steps which should have been taken to avoid dangers in navigation. Hence, Appellant's failure to take these precautions constituted negligence.

Whether a navigator is negligent must be judged by the knowledge he had, or ought to have had, at the time. The *Thingvalla*

(C.C.A. 2, 1891), 48 Fed. 764. According to this criterion, Appellant was negligent because he did not have the knowledge he should have had from his star fix, and he did not use other means available to him to assure himself the ship was in safe waters.

ORDER

The order of the Examiner dated at Galveston, Texas, on 4 January 1955 is /F/AFFIRMED.

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

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

***** END OF DECISION NO. 878 *****

