IN THE MATTER OF LICENSE NO. 314620 MERCHANT MARINER'S DOCUMENT NO. BK-65907 AND ALL OTHER SEAMAN'S DOCUMENTS
Issued to: MILTON G. BIGGERS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1637

MILTON G. BIGGERS

This appeal has been taken in accordance with Title 46 United States code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 5 April 1966, an Examiner of the United States Coast Guard at Port Arthur, Texas, suspended Appellant's seaman's documents for 3 months upon finding him guilty of negligence. The specification found proved alleges that while serving as Master on board the United States SS TEXACO CONNECTICUT under authority of the license above described, on or about 1 March 1966, Appellant failed to maintain the vessel's lifeboat equipment in proper condition.

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

The Investigating Officer intorduced in evidence the testimony of Ensign Timothy Kelly, United States Coast Guard, from the Marine Inspection Office at Port Arthur.

In defense, Appellant offered in evidence the testimony of the Chief Mate and a Boatswain aboard the vessel.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved. The Examiner then served a written order on Appellant suspending all documents issued to him for a period of 3 months.

The entire decision and order was served on 13 April 1966. Appeal was timely filed on 12 May 1966.

FINDINGS OF FACT

On 1 March 1966, Appellant was serving as Master on board the United States SS TEXACO CONNECTICUT and acting under authority if his license.

At about 0930 on this date Ensign Timothy J. Kelly, a U. S. Coast Guard Marine Inspection Officer, caused a testing of the lifeboat apparatus on board Appellant's vessel to be performed. The No. 2 boat was lowered to a few feet above the water and 740 gallons of ship's water was pumped into it. The boatswain and another seaman were in the boat. The boatswain tried to throw the releasing gear, but was unable to move it, as the pin holding the releasing lever in position was frozen. He was finally able to free the pin by the use of a pair of channel lock pliers he carried with him. With the assistance of the other seaman in the boat he was able to throw the lever -- but only one hook tripped. The boatswain tried to release the other hook with the use of a mallet, but could not force it loose. A bucket containing some penetrating oil, a metal scraper, and a heavier hammer were lowered to him, and using these tools he finally freed the hook. The whole process took about thrity minutes.

The same procedure was followed with the other lifeboats, and the same difficulties encountered. After the test, Ensign Kelly instructed the personnel to apply some lubricating oil to the releasing mechanism. When this was accomplished, Ensign Kelly tested the levers and the worked smoothly.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the negligence has not been proved, and that the order is excessive.

APPEARANCE: Benchenstein & Benckenstein of Beaumont, Texas;
By Mr. F. L. Beckenstein, of counsel.

OPINION

The testimony given by Ensign Kelly was not rebutted. The Chief Mate testified that he thought the releasing gear would probably have worked if the boats had been lowered in swells at sea. This pure conjecture, however, and is certainly not an acceptable defense to the obviously negligent condition of the lifeboat releasing apparatus on board the vessel.

appellant contends that Ensign Kelly could not observe what the boatswain was having difficulty with, and therefore his testimony is only speculation. At the very least, Ensign Kelly could see there was considerable difficulty in releasing the boats, that speacial tools and much physical force were needed, and that the process took about half an hour per boat. This much time and effort would not be available in an emergency.

Appellant has no prior record. His breach of duties in failing to maintain the lifeboat releasing apparatus in working condition has now been brought to his attention, and corrective action will presumably be taken by him. It is considered that a suspension of documents for one month is sufficient in this case.

ORDER

Only so much of the order of the Examiner dated at Port Arthur, Texas, on 5 April 1966, as provides for suspension of documents for one month is affirmed, and is hereby ordered.

W. J. SMITH
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 8th day of June 1967.

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***** END OF DECISION NO. 1637 *****

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