

**EDGARDO DORUELO, ANTHONY ESTENZO, PETITIONERS, VS.
MINISTRY OF NATIONAL DEFENSE, PHILIPPINE COAST GUARD, AND
MARIA EFIGENIA SHIPPING CORP., RESPONDENTS.**

G.R. No. 51214. January 26, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The Court modifies the decision of the respondent, the Philippine Coast Guard,[1] as well as the 1st Indorsement, in the nature of a disposition on appeal, of the respondent, the then Ministry of National Defense,[2] affirming the said decision.

The decision disposed of twin marine protests filed by the petitioner, Captain Edgardo Doruelo, in his capacity as master of LSCO Petroparcel, a steel tanker owned and operated by the Luzon Stevedoring Corporation, and Patron Delfin Villarosa, master of MB Maria Efigenia XV, a fishing boat owned and operated by the respondent, Maria Efigenia Shipping Corporation, arising from a maritime collision between the two vessels on September 21, 1977 resulting in the sinking of the fishing boat.

The decision disposed of as follows:

WHEREFORE, premises considered, it is hereby ordered that:

(1) Capt. Edgardo Doruelo and Chief Mate Anthony Estenzo be suspended for a period of two (2) years from the practice of their marine profession and be disqualified to board any vessel as marine officer during the period of suspension.

(2) Patron Delfin Villarosa be exonerated of any liability in the incident but he is hereby admonished and warned not to lose his cool and composure when faced with a similar situation in the future.

This decision shall become final and executory when no appeal is filed with the Minister of National Defense Thirty (30) days after receipt of a copy thereof.

SO ORDERED.[3]

The petitioners then appealed to the Ministry. The Ministry submitted a modified disposition, as follows:

After careful review and consideration of the evidence on record and other allied papers attached thereto, this Office finds the decision of the Commandant Philippine Coast Guard legally in order. Accordingly, the herein appeal of Capt Edgardo Doruelo and Chiefmate Anthony ESTENZO of LSCO PETROPARCEL is hereby dismissed for lack of merit. Additionally, based on the verified information that Capt. DORUELO is involved in another sea collision involving his vessel, thereby indicating HIS propensity to reckless operation of a watercraft, the penalty of suspension against him is hereby increased from two (2) years to three (3) years.[4]

The findings of the Philippine Coast Guard, so far as material to this petition, are hereinbelow reproduced as

follows:

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Evidence clearly shows that LSCO Petroparcel and the two fishing boats, MB Maria Efigenia XV and MB Maria Efigenia XI, the first towing the latter, were headed in the same direction at the time of the incident with the LSCO Petroparcel as the overtaking vessel while the fishing boats the overtaken vessels. This is evident from that fact that LSCO Petroparcel, which was a faster vessel having an operational speed of eight (8) knots, had overtaken the fishing boats in 45 minutes and was abeam the towing fishing boat now identified as MB Maria Efigenia XV. Rule 24 of the Inter-national Rules of the Road provides:

"(a) Notwithstanding anything contained in these Rules, every vessel overtaking any other shall keep out of the way of the overtaken vessel."

Pursuant to the above-quoted provision, LSCO Petroparcel as the overtaking vessel was required to keep out of the way of the overtaken vessels. Capt Doruelo claimed that when he had overtaken and was abeam the towing fishing boat, he altered course to left easy to give leeway to the fishing boat and to an unidentified dry cargo vessel which he allegedly sighted approaching from the opposite direction when his vessel was abeam the fishing boat. That the latter allegedly followed his vessel by altering to hard port, so he ordered hard port but still the fishing boat followed until she hit his vessel at her starboard side. In effect, Capt Doruelo was trying to impress the Board that he had kept out of the way of the overtaken fishing boats as required by the above-cited provision, but that the fishing boats followed and, in the process, the towing fishing boat hit his vessel.

The Board, however, did not believe such claim. The Board observed that when LSCO Petroparcel allegedly altered her course to left easy, she was abeam the towing fishing boat, MB Maria Efigenia XV, with a distance of 300 meters separating them (per Capt. Doruelo's Marine Protest and Chief Mate Estenzo's testimony) and travelling at full speed of 8 knots while MB Maria Efigenia XV, which allegedly followed by also altering her course to hard port, was travelling at a speed of 6 knots and towing another vessel. Under the given circumstances the Board held that MB Maria Efigenia XV could not have overtaken LSCO Petroparcel and hit the latter at her starboard side considering her (LSCO Petroparcel) faster speed and head start of 300 meters and the fact that MB Maria Efigenia XV had a slower speed and towing another fishing boat which further slowed down her speed.[5]

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The petitioners' challenges are mainly factual. The rule is that the findings of fact of administrative bodies, if based on substantial evidence, are controlling on the reviewing authorities. When is evidence "substantial" has been elaborated on, thus:

x x x "Substantial evidence is more than a mere scintilla. It means such rele-vant evidence as a reasonable mind might accept as adequate to support a conclu-sion." (Appalachian Electric Power v. National Labor Relations Board, 4 Cir., 93 F. 2d 985, 989; National Labor Relations Board v. Thompson Products, 6 Cir., 97 F. 2d 13, 15; Ballston-Still-water Knitting Co. v. National Labor Relations Board, 2 Cir., 98 F. 2d 758, 760.) x x x The statute provides that "the rules of evidence prevailing in courts of law and equity shall not be controlling." The obvious purpose of this and similar provisions is to free administrative boards from the compul-sion of technical rules so that the mere admission of matter which would be deemed incompetent in judicial proceed-ings would not invalidate the adminis-trative order. (Interstate Commerce Commission v. Baird, 194 U.S. 25, 44, 24 S. Ct. 563, 568, 48 Law. ed. 860; Interstate Commerce Commission v. Louisville & Nashville R. Co., 227 U.S. 88, 93, 33 S. Ct. 185, 187, 57 Law. ed. 431; United States v. Abilene & Southern Ry. Co., 265 U.S. 274, 288, 44 S. Ct. 565, 569, 68 Lsaw. ed. 1016; Tagg Bros. & Moorhead v. United States, 280 U.S. 420, 442, 50 S. Ct. 220, 225, 74 Law. ed. 624.) But this assurance of a desi-rable flexibility in administrative pro-cedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does

not constitute substantial evidence. (Consolidated Edison Co. v. National Labor Relations Board, 59 S. Ct. 206, 83 Law. ed. No. 4, ADv. Op., p. 131.)[6]

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We find nothing in the decision so questioned that would justify the review sought. On the other hand, we are satisfied, judging from its thoroughness, that the Philippine Coast Guard (through the Board of Marine Inquiry) heard the case judiciously and evaluated the evidence carefully. Such an evidence, appears not only substantial but preponderant as well.

The public respondents' alleged "misconstruance of the facts"[7] is not a ground for review. As we have indicated, we yield to the Philippine Coast Guard's factual findings because first, it had been called upon to make such findings and second, it was in a far better position to appraise the pieces of evidence before it. In any case, we cannot say that it had misconstrued the evidence, simply because it had rejected the petitioners' own. The question is whether or not the evidence utilized to support the decision can stand scrutiny. Under the circumstances, we find that it can. The petitioners on the other hand, with their naked insitencies alone, have not.

We, however, modify the decision insofar as the respondent Ministry had modified its provisions on the penalty imposable on the petitioner, Edgardo Doruelo. The Philippine Coast Guard had prescribed a two-year suspension, a prescription reversed on appeal, and the penalty increased to three years, "based on the verified information that Capt. DORUELO is involved in another sea collision involving his vessel, thereby indicating his propensity to reckless operation of a watercraft." [8] For another cardinal rule in administrative adjudication is that "[t]he decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties effected." [9] Hence, the respondent Ministry must be held to be in error in considering evidence not duly presented and in raising the penalty based thereon. If Captain Doruelo is liable for another sea mishap, let his liability be determined in the proper proceedings.

WHEREFORE, (1) the petition is hereby DISMISSED; and (2) the decision, dated November 21, 1978, insofar as it metes out the penalty of suspension of two (2) years against the petitioner, Captain Edgardo Doruelo, is REINSTATED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] In re: Sinking of MB Maria Efigenia XV, (PCG) BMI Case No. 332, November 21, 1978; rollo, 22-39.

[2] In re: Appeal from a decision of the Board of Marine Inquiry (MBI) on the Sinking of MB MARIA EFIGENIA XV, (MND), June 23, 1979; id., 21.

[3] Id., 38-39.

[4] Id., 21.

[5] Id., 32-33.

[6] Ang Tibay v. Court of Industrial Relations, 69 Phil. 635, 642-643 (1940).

[7] Rollo, id., 9.

[8] Id., 21.

[9] Ang Tibay v. Court of Industrial Relations, *supra*, 643.

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