

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

District Summons Case No 900954 of 2024 & 3 Ors

Public Prosecutor

Against

Richard Ouwehand
Martin Hans Sinke
Merijn Heidema
Eric Peijpers

ORAL JUDGEMENT

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Public Prosecutor
v
Richard Ouwehand
Martin Hans Sinke
Merijn Heidema
Eric Peijpers

District Summons Case No 900954 of 2024 & 3 Ors
District Judge James Elisha Lee

2 April 2025

District Judge James Elisha Lee

Introduction

1 These are my brief reasons for my decision, which I will supplement, if and when the need arises.

2 The accused persons are :

- a. Richard Ouwehand (“Master Ouwehand”), a 49-year-old male Dutch national;
- b. Martin Hans Sinke (“CO Sinke”), a 48-year-old male Dutch national; and
- c. Merijn Heidema (“3E Heidema”), a 26-year-old male Dutch national;
- d. Eric Peijpers (“2E Peijpers”), a 56-year-old male Dutch national.

Charges

3 The accused persons each pleaded guilty to 1 charge under s 115(4)(b) of the Merchant Shipping Act 1995 (“MSA”) for failing to discharge their duties properly as crew members of the Netherlands-flagged vessel “Vox Maxima” to such an extent as to cause serious damage to another ship, namely the Singapore-flagged vessel “Marine Honour”.

4 In respect of Master Ouwehand and CO Sinke, the failure to discharge their duties properly relates to not ensuring that emergency steering was carried out when emergency power was supplied to the steering pumps of the vessel.

5 In respect of 3E Heidema and 2E Peijpers, the failure to discharge their duties properly relates to:

- (a) not satisfying themselves regarding the condition and mode of operation of the electrical power distribution system prior to taking over the engineering watch; and
- (b) not ensuring that when the engine room was put on stand-by condition, an adequate reserve of power was available for the vessel’s steering gear and other requirements during the engineering watch.

OVERVIEW OF THE PARTIES’ POSITIONS ON SENTENCE

Prosecution’s Address on Sentence

6 The Prosecution has submitted for a sentence of between \$20,000 to \$30,000 fine each in respect of the charges against Master Ouwehand and CO Sinke respectively, and a fine of between \$40,000 to \$50,000 each in respect of the respective charges against 3E Heidema and 2E Peijpers.

- 7 The Prosecution has cited the following in support of their submissions:
- a. the need for general deterrence in order to protect the safety of ships and their crew at sea;
 - b. the extensive damage caused to the Marine Honour and the resulting oil spillage from the allision between the 2 vessels;
 - c. the culpability of the accused persons. Specifically, in respect of 3E Heidema and 2E Peijpers, they had been negligent in failing to check the state of the circuit breakers, which if they had done, would have led to the realisation that the circuit breaker of the outgoing feeder of the high voltage (“HV”) switchboards to the step-down transformer on the starboard side of the Vox Maxima (“Breaker 1”) was opened. The failure to close Breaker 1 resulted in no electrical power from the Starboard Generator being supplied to the low voltage equipment and only the Port Generator was supplying electrical power to the low voltage equipment during the voyage from the Western Anchorage to the Tuas Shipyard. This ultimately caused the blackout when the circuit breaker of the outgoing feeder of the HV switchboards to the step-down transformer on the port side (“Breaker 2”) tripped due to increased electrical load and resulted in the loss of steering and propulsion control of the Vox Maxima, which eventually led to the allision with the Marine Honour. In respect of Master Ouwehand and CO Sinke, they had failed to carry out emergency steering when the blackout occurred. Their failure to do so was attributable to their lack of familiarity with the vessel’s systems and procedures including emergency steering at the material time;

- d. the lack of antecedents for all 4 accused persons and their co-operation with investigations and timely plea of guilt.

The Mitigation Pleas

8 Counsel for Master Ouwehand and CO Sinke submitted for a fine of between \$20,000 and \$30,000 each, which is aligned with the Prosecution's position. As for 3E Heidema and 2E Peijpers, their counsel have submitted for the same sentence, i.e. a fine of \$20,000 to \$30,000.

9 In the respective mitigation pleas for Master Ouwehand and CO Sinke, the following were raised:

- a. the short time span of only 4 minutes between the blackout and eventual allision between the 2 vessels during which they had to assess the situation and make split-second decisions and judgment calls under significant stress based on the knowledge and information available to them at the time;
- b. prior to commencement of the voyage from the Western Anchorage to the Tuas Shipyard, CO Sinke had checked and confirmed that the vessel's engines, rudders, bow thruster and bridge equipment were all in good working condition;
- c. when the blackout occurred, numerous loud alarms for the vessel's various systems were simultaneously triggered. They had attempted to regain steering control but were unable to do so as the emergency power had not been restored. Although emergency power was eventually restored 1 minute after the blackout had occurred, both

Master Ouwehand and CO Sinke were not aware as there was no indication of the emergency power having been restored;

- d. they then continued with efforts to regain control of the vessel which included giving directions to drop anchor. Unfortunately, the port side anchor was stuck while the starboard side anchor was not prepared for emergency release;
- e. at this point, Master Ouwehand was also faced with having to deal with an imminent collision with another vessel, the Super Hero and was overseeing the senior pilot's communication with the pilot of the Super Hero. The collision was averted after Master Ouwehand had suggested to the senior pilot to direct the Super Hero to make a hard turn to starboard;
- f. Master Ouwehand and CO Sinke also had to monitor the situation regarding the vessel's stuck anchor and the safety of the crew who were trying to free it;
- g. when it became clear that a collision with the Marine Honour was inevitable, Master Ouwehand's attention immediately turned to the safety of the crew and sounded the alarm for them to brace for impact;
- h. while the collision resulted in damage to the Marine Honour and an oil spill in Singapore waters, there were no fatalities or personal injuries caused. The clean up of the oil spill had also been completed and parties affected will be able to claim compensation from the limitation funds constituted by the insurers of the Vox Maxima and

Marien Honour respectively, as well as via the International Oil Pollution Compensation Fund;

- i. both Master Ouwehand and CO Sinke are genuinely remorseful as evidenced by their early indication of intention to plead guilty. They had also been co-operative with the authorities during investigations. They are both untraced and have positive track records in their careers so far.

10 Counsel for Master Ouwehand and CO Sinke further submitted that while general deterrence would be a key sentencing principle in the present case, it need not always take the form of a custodial sentence. In this regard, they referred to 2 cases in support.

11 The first is the case of *PP v Ng Keng Yong and anor* [2004] SGDC 74. The 2 offenders in that case were members of the bridge team on board the Republic of Singapore Navy (“RSN”) ship the RSS Courageous which was involved in a collision at sea with another vessel which resulted in the death of 4 RSN personnel. They were each charged for doing a negligent act not amounting to culpable homicide by navigating the RSS Courageous in an unsafe manner and causing it to collide with the other vessel under s 304A of the Penal Code. The offenders were sentenced to fines of \$10,000 and \$8,000 respectively. The court had held that where the degree of negligence is not one of gross negligence but merely negligence simpliciter, akin to a “momentary lapse” which “stemmed from an isolated error of judgment”, a fine would generally be sufficient. The court further held that just because multiple lives were lost and the disaster was on a large scale did not automatically elevate the offence into one warranting a custodial sentence. The fines were upheld on appeal.

12 The second case is *PP v Seah Chong Beng* [2011] SGDC 174. The offender was convicted on 1 charge under s 65A of the Road Traffic Act 1961 for causing a motor lorry to collide into the Fort Canning Tunnel. The court found that there was no evidence of recklessness or gross negligence and that the offender had failed to ensure that the crane boom of the vehicle had been lowered to its resting position due to lapse of attention. The offender was sentenced to a fine of \$4,000 and disqualified from driving from 12 months.

13 In the mitigation pleas for 3E Heidema and 2E Peijpers, the following were raised:

- a. when they took over the engineering watch at 12pm on the day of the incident, they had not been informed during the verbal hand-over that electrical inspection work had been carried out on the starboard transformer earlier that morning and the engineers from the previous shift had switched Breaker 1 off on the Power Management System (“PMS”). Neither was it reflected in the engine room logbook. As Breaker 1 was closed when 2E Peijpers handed over the engineering watch the preceding evening, and being unaware of the inspection work, he was naturally under the impression that the configuration of the vessel’s system was unchanged from the previous evening;
- b. 3E Heidema and 2E Peijpers had to work through an extensive checklist of checks and operational procedures to prepare the vessel for the voyage from the Western Anchorage to the Tuas Shipyard which was scheduled for 1.30pm;

- c. it was difficult to spot that Breaker 1 was open on the PMS display due to the subtle visual difference between a closed and open circuit breaker. It would also have been difficult to conduct a visual or manual inspection of the circuit breakers in the high voltage room which was located at a higher deck given the checks and operations they had to complete in the engine control room in preparation for the voyage. They had also not checked the low voltage switchboards as they were located at a different part of the engine control room from the PMS display;
- d. both 3E Heidema and 2E Peijpers were under the genuine belief that the Vox Maxima would have adequate reserve of power to complete the relatively short voyage. This is supported by the results of simulation blackout tests conducted pursuant to the Maritime and Port Authority of Singapore's ("MPA") direction to recreate the conditions of the day of the incident. The blackout was therefore not an event which was foreseeable in the circumstances;
- e. after the blackout had occurred, 3E Heidema and 2E Peijpers took swift action to restore electrical power. 3E Heidema was prompt in checking if there was any assistance required in the engine control room and was quick to be on standby for emergency steering in the steering gear room. 2E Peijpers immediately sprinted back to the engine control room to assist with restoration of the electrical power;
- f. both 3E Heidema and 2E Peijpers have indicated their intention to plead guilty early, which demonstrate remorse. They had also co-operated with investigations. They are both untraced and have

positive career track records so far. 3E Heidema is also a very junior engineer who has just started his career.

SENTENCING CONSIDERATIONS

General Deterrence

14 The legislative intent behind s 115 of the MSA is clear. The provision is situated within Part 5 of the MSA which deals with the safety of ships and crew at sea. S 115(4)(b) seeks to protect against the loss or destruction of or serious damage to ships and their machinery, navigational equipment or safety equipment, structures and the death of or serious injury to any person.

15 It is trite that for offences affecting public safety, which would include safety at sea, general deterrence would be warranted – *PP v Law Aik Meng* [2007] 2 SLR(R) 814 at [24(d)]. The central sentencing consideration for the present case, as such, would be that of general deterrence.

16 The prescribed sentence for the offence under s 115(4)(b) of the MSA is a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both. The court in deciding on the appropriate sentences to be meted out against each of the accused persons would have to first consider whether the sentences should be a fine or a custodial term or both, and thereafter calibrate the appropriate individual fine quantum and/or term of imprisonment.

17 This would entail the court considering the harm caused or impact of the offences committed, the culpability of each accused person, and offender-specific factors.

Harm Caused

18 The allision resulted in significant damage to the Marine Honour. At least six water ballast tanks, ten cargo oil tanks, and the slop port tank were damaged. The vessel is still undergoing repairs with the repair costs estimated to exceed S\$6.6 million.

19 Although the charges have referred only to the damage caused to the Marine Honour, it would be apposite and necessary for the court to also take into consideration the impact of the resulting spillage of about 400 metric tonnes of oil into the sea from the Marine Honour.

20 The oil spillage affected a large part of Singapore's southern shorelines which include the Labrador Nature Reserve, Sentosa Island, the Southern Islands, and East Coast Park. According to the Ministerial Statements¹ released on the incident, significant effort and resources had to be deployed to contain and mitigate the immediate effects and subsequent clean-up of the oil spill. These included the deployment of containment booms around the damaged vessel, the deployment of oil skimmers and the targeted deployment of booms along our coastlines and waterfronts to facilitate clean-up operations. Air quality tests at the affected areas had to be conducted to ensure the safety of the public and clean-up personnel. Water quality had to be monitored to ensure the safety of our water supply and fish farms. Measures had to be taken as well to assist businesses affected by the oil spill.

¹ See Ministerial Statements on the Pasir Panjang Terminal Oil Spill Incident on 14 June 2024 by the Minister for Transport Mr Chee Hong Tat, Minister for Sustainability and the Environment and Minister-In-Charge of Trade Relations Ms Grace Fu, and Minister for National Development Mr Desmond Lee delivered in Parliament on 2 July 2024.

21 The clean-up operations took more than 2 months and the full extent of the impact of the oil spill is still being assessed.

22 That said, I note that the respective vessel owners have through their insurers paid substantial sums totalling more than S\$40 million into Court to constitute a limitation fund from which affected parties with established economic losses may receive compensation. Should the fund be insufficient, a second tier of compensation for oil pollution damage may be provided via the International Oil Pollution Compensation Fund through the 1992 Fund Convention.

23 As such, while the impact of the oil spillage on the environment may be wide, it has been somewhat mitigated by the availability of economic compensation.

Culpability of CO Sinke and Master Ouwehand

24 When the blackout occurred at 2.12pm, resulting in the loss of steering control of the Vox Maxima, Master Ouwehand and CO Sinke had immediately attempted to regain steering control by taking the requisite steps to engage in emergency steering by switching the steering mode from auto-pilot mode to non-follow up (“NFU”) or manual mode. They were, however, unable to do so as emergency power had not been restored at the time.

25 When emergency power was restored at 2.13pm, the vessel’s voyage data recorder (“VDR”) showed that there was no steering input from the NFU controls from 2.13pm to 2.16pm when the Vox Maxima allided with the Marine Honour. This was notwithstanding that Master Ouwehand had at 2.14pm, manually activated the 2 steering gear pumps from the bridge and could have

carried out emergency steering at that point. Notably, the VDR data showed a switching between follow-up and non-follow up steering modes with no steering inputs.

26 Besides the bridge, emergency steering could also have been carried out from the steering gear room. Instructions could have been communicated from the bridge to the officers in the steering gear room. At the material time, there were 2 officers in the steering gear room, one of whom was 3E Heidema. No steps were taken by Master Ouwehand and/or CO Sinke to communicate any steering instructions to the steering gear room.

27 The failure on the part of Master Ouwehand and CO Sinke to make a second attempt to engage in emergency steering after their initial failed attempt, in particular after Master Ouwehand had activated the 2 steering gear pumps, and the failure to communicate emergency steering instructions to the officers in the steering gear room suggest a lack of familiarity on the part of Master Ouwehand and CO Sinke with emergency steering which was expected of them at the time. In this regard, the submission that there was no indication on the bridge that emergency power had been restored, and consequently they had been unaware precisely when emergency power had been restored does not assist them as they would have been expected to know that there would be a time lapse between the blackout and restoration of emergency power with the standard under the International Convention for the Safety of Life at Sea being for emergency power to be supplied within 45 seconds of a main power failure.

28 That said, I appreciate the conditions Master Ouwehand and CO Sinke were abruptly thrust into when the blackout occurred. The triggering of the various alarms and the pressure of having to deal with a sudden emergency

would have had a significant impact on their reaction and decision-making at the time, notwithstanding that they had been trained to handle such situations.

29 It is pertinent that both Master Ouwehand and CO Sinke had attempted other measures to regain control of the vessel. CO Sinke gave directions to drop anchor. Unfortunately, one of the anchors became stuck while the other had not been prepared for emergency release. When this was reported to Master Ouwehand and CO Sinke, it became another situation which they had to manage.

30 At the same time, they were faced with an impending collision with another vessel the Super Hero and Master Ouwehand's attention was focused on the possible emergency actions to be taken to avoid the collision at the material time. Thankfully the collision was averted.

31 It is also significant that between the occurrence of the blackout and the collision with the Marine Honour, the time lapse was only 4 minutes. And between the restoration of emergency power and the collision, the time lapse was even shorter at 3 minutes. Although there would still have been sufficient time for emergency steering to be carried out, had Master Ouwehand and CO Sinke realised that emergency power had been restored, this must be considered in the light of the situation and circumstances they were in at the time.

32 Drawing guidance from the analysis in *Ng Keng Yong*, this was not a case of gross negligence but one more akin to a "momentary lapse" which "stemmed from an isolated error of judgment". I am also of the view that the principle that in such an instance, a fine would generally be sufficient notwithstanding that *Ng Keng Yong* involved a different offence, would apply. It is also trite that a deterrent sentence need not always take the form of a

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custodial sentence and that it may take the form of a fine if it is high enough to have a deterrent effect on the offender as well as others - *PP v Cheong Hock Lai and other appeals* [2004] 3 SLR(R) 203 (“*Cheong Hock Lai*”).

33 I agree, as such, with parties that a custodial sentence would not be warranted against Master Ouwehand and CO Sinke.

Mitigating Factors

34 I note that both Master Ouwehand and CO Sinke had elected to plead guilty early, a significant factor in terms of saving of court resources, which would have been substantial given the complex nature of the case. They had also rendered full co-operation during investigations. I have also considered their positive career track records and that they are untraced.

35 I am therefore of the view that a fine at the lower end of the spectrum proposed by the Prosecution would be appropriate.

Culpability of 3E Heidema and 2E Peijpers

36 The cause of the blackout was the tripping of Breaker 2, the circuit breaker of the incoming feeder of the LV switchboards on the port side of the Vox Maxima. This was due to Breaker 2 being overloaded when the second hydraulic pump was started. The overloading had occurred as only one of the generators, namely the Port Generator was supplying electrical power to the LV switchboards from which the hydraulic pumps drew power from. The Starboard Generator was not supplying any electrical power as Breaker 1, the circuit breaker of the outgoing feeder of the HV switchboards to the step-down transformer on the starboard side was open.

37 Breaker 1 had been left open after maintenance work had been carried out in the morning of the day of the incident. Regretfully, it remained open when the Vox Maxima commenced its voyage from the Western Anchorage to the Tuas Shipyard and eventually resulted in the occurrence of the blackout.

38 3E Heidema and 2E Peijpers had taken over the engineering watch on the day at 12pm. Prior to taking over the engineering watch, they had failed to check the status of the circuit breakers. This was in breach of their duty to satisfy themselves as to the condition and operation of the vessel's systems, including the electrical power distribution system. Had they done so, they would have realised that Breaker 1 was open and would have presumably proceeded to close it before commencement of the voyage and the blackout would, in all probability not have occurred. In other words, the occurrence of the blackout can be directly attributed to the failure to check the circuit breakers before commencement of the voyage.

39 It is not in dispute that when 3E Heidema and 2E Peijpers took over the engineering watch, they had not been informed of the maintenance work carried out that morning which required the opening of Breaker 1. The maintenance work had also not been recorded in the engine room logbook as required. 3E Heidema and 2E Peijpers were therefore unaware that Breaker 1 was open. They had assumed that the configuration of the vessel's system had remained unchanged from their previous watch, that is with Breaker 1 closed.

40 I accept that had 3E Heidema and 2E Peijpers been informed of the maintenance work carried out that morning which required the opening of Breaker 1, it was highly probable that they would have proceeded to check and ensure that Breaker 1 was closed as part of the preparation for the voyage. I also accept that the preparation of the vessel for the voyage involved going through

an extensive checklist of steps to prepare the engine room for sailing which they had to complete within a relatively short time, namely within 1.5 hours. This does not, however, absolve them of the duty to check and ensure that the vessel's power supply system was in the correct configuration. Had the relevant checks been carried out properly, or at all, they would have realised that Breaker 1 was open at the material time. In this regard, 3E Heidema and 2E Peijpers have acknowledged that it was their responsibility to check in any event.

41 This was especially when they were operating the PMS during the preparation of the vessel and ought to have realised that Breaker 1 was open from the display screen. I accept that the difference between a closed and open circuit breaker on the display of the PMS may not be apparent at first glance. I accept as well that this can be further affected by light reflecting off the screen. 3E Heidema and 2E Peijpers were, however, not novice users of the PMS at the material time. In fact, they would have been, or ought to have been familiar with the display and, in my view, would not have failed to notice that Breaker 1 was open IF they had checked. Had they done so, the necessary steps would have been taken to close Breaker 1.

42 3E Heidema and 2E Peijpers have also submitted that the blackout was unforeseen as they had honestly believed that the vessel had more than sufficient power, given the length and nature of the voyage. They had referred to the results of the blackout simulation tests carried out post the incident on the load capacity of the transformers set out in the Schneider Report and Bakker Report to support the position that their belief that the Vox Maxima would have had more than adequate reserve of power was understandable in the circumstances given that they were unaware of the open Breaker 1.

43 The Prosecution does not accept that the said reports provide adequate support given that the simulation tests had been carried out on the transformers rather than the circuit breakers and that the tests did not take into account the electrical load for the use of the hydraulic pumps.

44 Notwithstanding the Prosecution's objection, even if I accept that 3E Heidema and 2E Peijpers had honestly believed that the Vox Maxima had more than sufficient power for the voyage and that the blackout was unforeseen, it was still based on a mistaken assumption that Breaker 1 was not open. As such, the fact that they had honestly, but mistakenly believed that there was adequate power for the voyage was ultimately irrelevant in the final analysis. The failure to ensure that the Vox Maxima had an adequate reserve of power for the vessel's steering gear and other requirements had stemmed from their failure to check and ensure that the vessel's power supply system was properly configured.

45 I am of the view that 3E Heidema and 2E Peijpers' failure to do so amounted to negligence on their part. Given the circumstances, however, I am of the view that the level of negligence did not amount to one of gross negligence, and I similarly agree with parties that a custodial sentence would not be warranted against 3E Heidema and 2E Peijpers. I am of the view, however, that their culpability is higher than that of Master Ouwehand and CO Sinke.

Mitigating Factors

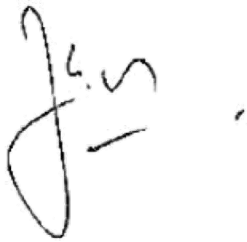
46 Both 3E Heidema and 2E Peijpers had similarly elected to plead guilty early and rendered full co-operation during investigations. I have likewise also considered their positive career track records and that they are untraced.

47 While I agree with the Prosecution that a higher fine would be warranted in respect of 3E Heidema and 2E Peijpers, I am of the view that it would not be appropriate for the maximum prescribed fine to be imposed in view of the mitigating factors.

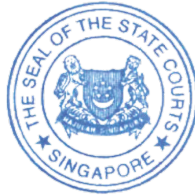
Sentence Imposed

48 The sentences against the accused persons are therefore as follows:

Master Ouwehand	\$20,000 fine in default 1 month's imprisonment
CO Sinke	\$20,000 fine in default 1 month's imprisonment
3E Heidema	\$40,000 fine in default 2 months' imprisonment
2E Peijpers	\$40,000 fine in default 2 months' imprisonment



James Elisha Lee
District Judge



Deputy Public Prosecutors Regina Lim and Mark Ng (Attorney-General's Chambers)
for the Public Prosecutor;
Mr Yap Yin Soon, Ms Christine Tee, Mr Ho Pey Yann, Mr Douglas Lok and Mr
Alfred Li (Allen & Gledhill LLP) for the accused person Master Ouwehand;
Mr Ng Lip Chih and Mr Mark Tan (Foo & Quek LLC) for the accused person CO
Sinke;
Mr Christopher Daniel and Ms Harjean Kaur (Advocatus Law LLP) for the accused
person 3E Heidema;
Mr Oommen Mathew and Mr See Wern Hao (Omni Law LLC) for the accused
person 2E Peijpers.