

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

FILED

SEP 20 2017

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY PMJ DEP CL

No. 7:17-CR-119-H

UNITED STATES OF AMERICA)
)
 v.)
)
 JINHYUN YOUN)
)
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)
)

CRIMINAL INFORMATION
Fed. R. Crim. P. 7

THE UNITED STATES' ATTORNEY CHARGES THAT:

COUNT ONE

(Act to Prevent Pollution from Ships

33 U.S.C. § 1908(a), 33 CFR § 151.25, and 18 U.S.C. § 2)

FACTUAL BACKGROUND

At all times relevant herein,

1. Defendant JINHYUN YOUN ("YOUN") served as the Chief Engineer of the Motor Vessel ("M/V") *ATLANTIC OASIS* from on or about December 23, 2016, until on or about May 18, 2017. The M/V *ATLANTIC OASIS* bore the International Maritime Organization identification number 9531650.

The M/V ATLANTIC OASIS

2. The M/V *ATLANTIC OASIS* was an ocean-going vessel engaged in world-wide international commerce including in the United States and in the Eastern District of North Carolina. The vessel was 590 feet long, weighed 21,290 gross tons, and was registered or "flagged" by the Republic of Panama.

3. The *M/V ATLANTIC OASIS* had a crew including a Master, Chief Engineer (YOUN), First Engineer, Second Engineer, Third Engineer, First Oiler, Oiler A, Oiler B, and a Wiper. As the Chief Engineer, YOUN was in charge of the engineering department, supervising engineering personnel and responsible for the proper disposal of oily waste generated in the engine room.

4. On vessels like the *M/V ATLANTIC OASIS*, oily engine room waste, known as sludge, waste oil, and machinery space bilge water, are generated on a regular basis. Sludge is the by-product of the purification of the vessel's lubrication and fuel oils that are used in the electrical generation machinery and the main propulsion engine. Waste oil is the result of oil leakages from various machinery as well as from replacing lubrication oils in the machinery. Machinery space bilge water refers to oil and water that drips and leaks from machinery and mechanical systems and accumulates in the bilge, which is the bottom-most portion of the engine room. Sludge and waste oil can only be disposed of in two manners: (1) incineration in the vessel's onboard incinerator, or (2) disposal to a barge or other shore-based disposal facility. Machinery space bilge water can also be disposed of in only two manners: (1) processing through the onboard Oil Water Separator and Oil Content Monitor resulting in an overboard discharge of water with no more than 15 parts per million ("ppm") of oil, or (2) disposal to a barge or other shore-based disposal facility.

Prior to disposal, machinery space bilge water is transferred to, and stored in, the vessel's bilge water holding tank. All disposals of sludge, waste oil, or bilge water, whether through incineration, use of the Oil Water Separator, or transfer to a shore-based facility, must be recorded by the person or persons in charge of those operations in the vessel's Oil Record Book. Similarly, all transfers of sludge, waste oil, or bilge water on board the vessel must be recorded by the person or persons in charge of those operations in the vessel's Oil Record Book. The senior engineers on the *M/V ATLANTIC OASIS* were the person or persons in charge of these operations and required to accurately maintain the vessel's Oil Record Book.

LEGAL BACKGROUND

5. The United States is part of an international regime that regulates the discharge of oil from vessels at sea: the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 (together MARPOL). MARPOL is embodied in agreements that the United States has ratified and has been implemented in the United States by the Act to Prevent Pollution from Ships (APPS), 33 U.S.C. §§ 1901 et seq. APPS makes it a crime for any person to knowingly violate MARPOL, APPS, or regulations promulgated under APPS. 33 U.S.C. § 1908. These regulations apply to all commercial vessels operating in the navigable waters of the United States or while in a port or

terminal under the jurisdiction of the United States, including vessels operating under the authority of a country other than the United States. 33 U.S.C. § 1902(a)(1)(3).

6. MARPOL Annex I ("Regulations for the Prevention of Pollution by Oil") established international standards governing the treatment and disposal of oily mixtures generated from the machinery spaces of a vessel. Under MARPOL, machinery space bilge water may be discharged overboard into the ocean only if it does not exceed 15 ppm of oil and the ship has in operation required pollution prevention equipment. This equipment includes: an oil filter, known as an Oil Water Separator; an alarm, known as an Oil Content Monitor; and an automatic stopping device, known as a Three-Way Valve. This equipment prevents the discharge of machinery space waste containing more than 15 ppm oil, the maximum legally permitted concentration of oil in the dischargeable mixture.

7. Consistent with the requirements contained in MARPOL, APPS regulations require that vessels such as the *M/V ATLANTIC OASIS* maintain a record known as an Oil Record Book in which the disposal, transfer, and discharge overboard of sludge, oil residue, oily mixtures, and machinery space bilge water must be recorded. 33 C.F.R. § 151.25(d). Discharges from the machinery spaces must be fully and accurately recorded in the Oil Record Book without delay by the person in charge of the operations. 33

C.F.R. § 151.25(d) and (h). The Oil Record Book also must record any emergency, accidental, or other exceptional discharges of oil or oily mixtures, including a statement of the circumstances, and reasons for, the discharge. 33 C.F.R. § 151.25(g). The Oil Record Book must be maintained aboard the vessel for not less than three years, and be readily available for inspection at all reasonable times. 33 C.F.R. § 151.25(k). According to 33 C.F.R. § 151.25(j), "[t]he master or other person having charge of a ship required to keep an Oil Record Book shall be responsible for the maintenance of such record." Other members of the ship's crew, including Chief Engineers such as YOUN, may aid and abet and cause the vessel master's failure to maintain an accurate Oil Record Book under 18 U.S.C. § 2.

8. The United States Coast Guard, an agency of the United States Department of Homeland Security, is charged with enforcing the laws of the United States and is empowered under Title 14, United States Code, Section 89(a) to board vessels and conduct inspections and investigations of potential violations and to determine compliance with MARPOL, APPS, and related regulations. In conducting inspections, United States Coast Guard personnel rely on the statements of the vessel's crew and documents, including information contained in Oil Record Books. The United States Coast Guard is specifically authorized to examine a vessel and its Oil Record Book for compliance with MARPOL and APPS. 33

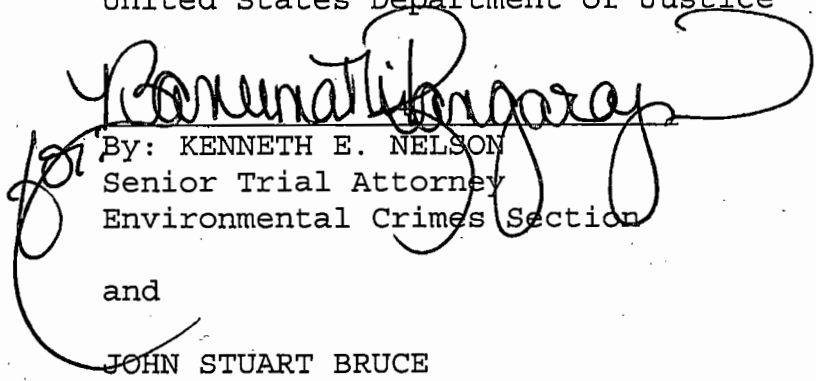
U.S.C. § 1907(d); 33 C.F.R. § 151.23(a)(3) and (c); MARPOL Protocol, Annex V, Regulation 9(5); and 33 C.F.R. § 151.61(a) and (c).

The Charge

9. On or about May 17, 2017, in the Port of Wilmington, North Carolina, and within the Eastern District of North Carolina, and elsewhere, defendant YOUN did knowingly fail to maintain and did knowingly aid, abet, and cause the failure to maintain, an Oil Record Book for the *M/V ATLANTIC OASIS* in which quantities of sludge, oil residue, oily mixtures, and machinery space bilge water, and the discharge and disposal of these substances, were fully and accurately recorded, as required. Specifically, defendant YOUN, (1) failed to record discharges from the Waste Oil Tank; (2) failed to record discharges from the fuel oil purifier systems; (3) failed to record discharges from the lubrication oil systems; (4) failed to record discharges from the Bilge Holding Tank; and (5) failed to record a discharge from the engine room bilge wells.

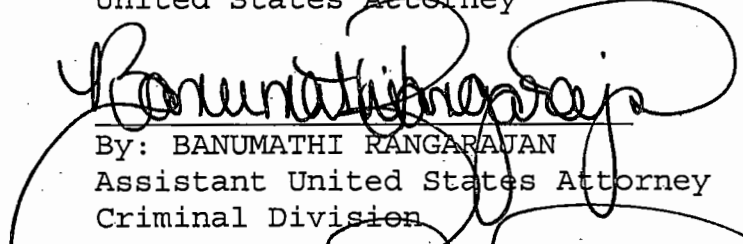
All in violation of Title 33, United States Code, Section 1908(a); Title 18, United States Code, Section 2; and Title 33, Code of Federal Regulations, Section 151.25(a), (d), (e), (g) (h), and (j).

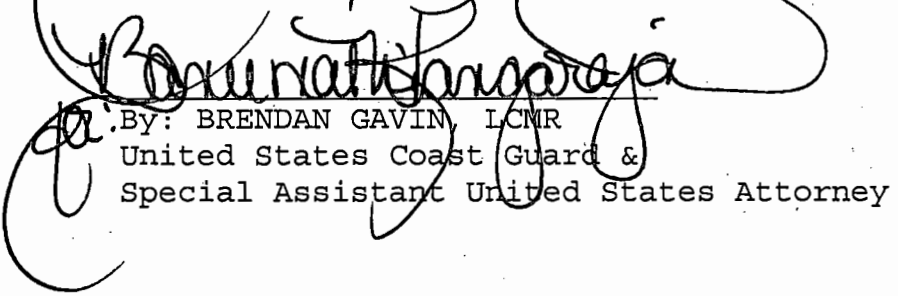
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