

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 93-2519

PER SOLVANG,

Plaintiff-Appellant,

versus

M/T PLAN KRISTINE fka M/T MAGIC SKY and MAGIC SKY, INC.,

Defendants-Appellees,

K/S PLAN MAGIC,

Claimant-Appellee.

Appeals from the United States District Court
for the Southern District of Texas

(CA-H-92-1617)

(January 6, 1995)

Before JONES and DeMOSS, Circuit Judges, and BUNTON*, District Judge.

PER CURIAM:**

In June 1992, the plaintiff-seaman sued the defendant-shipowner, alleging that the shipowner unlawfully refused to pay him wages within the statutory four-day period after his discharge.

* District Judge of the Western District of Texas, sitting by designation.

**Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

See 46 U.S.C. § 10313(f). The shipowner contends that § 10313(f)'s double wages penalty is not applicable because it had sufficient cause to withhold Solvang's wages, i.e., Solvang submitted erroneous expense and salary requests. Id. § 10313(g). The seaman concedes that the shipowner originally had sufficient cause. The seaman, however, maintains that sufficient cause terminated once the shipowner calculated the seaman's wages, and that because the shipowner withheld the seaman's wages an additional one-and-one-half months after that calculation, the shipowner ultimately is liable under § 10313(f)'s double wages penalty.

The district court held in June 1993 that, because the shipowner originally had sufficient cause to withhold the seaman's wages, § 10313(f)'s double wages penalty was no longer applicable even if a subsequent withholding was unjustified. The seaman appealed. We have heard oral argument, reviewed the parties' briefs, and examined relevant portions of the record, and we conclude that the district court's findings and conclusions are well reasoned and properly decided. Section 10313 "affords a definite and reasonable procedure by which the seaman may establish his right to recover double pay where his wages are unreasonably withheld. But it affords no basis for recovery if, by his own conduct, he precluded compliance with it by the master or owner." McCrea v. United States, 294 U.S. 23, 32 (1935) (interpreting the earlier version of § 10313).

The district court is AFFIRMED.