

SERVED: January 20, 1998

NTSB Order No. EA-4620

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 15th day of January, 1998

_____)	
Petition of)	
)	
CARL FOREMAN)	
)	
for review of the denial by)	Docket SM-4232
the Administrator of the)	
Federal Aviation Administration)	
of the issuance of an airman)	
medical certificate.)	
_____)	

ORDER DISMISSING PETITION FOR REVIEW

On October 24, 1997, the petitioner filed a notice of appeal from an order terminating this proceeding that the law judge served on September 3, 1997.¹ The law judge's order granted an unanswered motion by the Administrator for dismissal of the matter on the ground that petitioner's petition for review of the denial of his application for a third class medical certificate was untimely.² In response to a request by the petitioner that his notice of appeal be accepted some 31 days beyond the filing deadline, the Administrator asks that the extension sought by the petitioner be denied and his appeal dismissed.³ Because we agree

¹ Petitioner's notice is dated October 23, 1997, and postmarked October 24, 1997.

² In fact, petitioner's petition for review was 19 months late.

³ Section 821.47 of the Board's rules of practice provides as follows:

that petitioner has not identified any reason which would justify his tardiness in submitting a notice of appeal, his request that we accept it out of time cannot be granted.

A late notice of appeal will not be accepted for filing in the absence of good cause. See, e.g., Administrator v. Hooper, 6 NTSB 559 (1988). Petitioner's unexplained assertion that his notice of appeal was not filed on time because of his financial, and his fiancée's legal, problems does not establish that he could not have either communicated his desire to appeal from the law judge's order or requested more time to do so before the deadline imposed by our rules passed.

ACCORDINGLY, IT IS ORDERED THAT:

The petitioner's appeal from the law judge's September 3, 1997 order is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.

(..continued)

§ 821.47 Notice of Appeal.

(a) A party may appeal from a law judge's order or from the initial decision by filing with the Board and serving upon the other parties (pursuant to §821.8) a notice of appeal within 10 days after an oral initial decision or an order has been rendered or a written decision or a final or appealable (see § 821.16) order has been served....