

SERVED: January 22, 1998

NTSB Order No. EA-4616

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 5th day of January, 1998

JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-14742
v.)	
)	
HADI STEIN,)	
)	
Respondent.)	

OPINION AND ORDER

Respondent has appealed from the oral initial decision of Administrative Law Judge Patrick G. Geraghty, issued on March 26, 1997, following an evidentiary hearing.¹ The law judge affirmed an order of the Administrator, on finding that respondent had violated 14 C.F.R. 135.5, 135.63(c), 135.95, 135.297, and 135.299(a) in connection with a Part 135 flight on December 15,

¹ The initial decision, an excerpt from the transcript, is attached.

1995.² We deny the appeal.³

In his answer, respondent denied only the alleged violations of section 135.95, .297, and .299(a). The hearing thus was limited to one issue: whether respondent was authorized to operate as a pilot in command (PIC). The Administrator introduced respondent's proficiency check form 8410-3, which by its specific terms authorized only second-in-command operations. Respondent offered one exhibit, a letter from a Mr. Rod Grove, and his own testimony, the thrust of which was that respondent never saw the completed form 8410-3 and believed he was authorized to act as pilot in command. Respondent suggested that the check airman was well aware of respondent's need to be certified as a PIC.

On appeal, respondent seeks to offer the testimony of Mr. Grove, the check airman (Mr. Stelios Rapis), and another to prove that he was checked out as a pilot in command. However, as the Administrator points out in reply, respondent had a full opportunity at the March hearing to introduce evidence and subpoena witnesses. Administrator v. Chirino, 5 NTSB 1669 (1987); Administrator v. Smith, NTSB Order No. EA-3558 (1992).

² Section 135.5 requires an air carrier operating certificate. Section 135.63(c) requires an accurate load manifest. Sections 135.95, 297, and 299(a) require that airmen and pilots in command have current certificates and are qualified for the Part 135 operations, and that they have timely proficiency checks.

³ The law judge, however, reduced the sanction from a 120-day to a 100-day suspension of respondent's airline transport pilot certificate, an action the Administrator has not appealed.

He has provided us no reason why he did not make use of that opportunity. Further, respondent's appeal offers no basis for us to identify any error in the law judge's ultimate conclusions.⁴

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied; and
2. The 100-day suspension of respondent's airline transport pilot certificate shall begin 30 days from service of this order.⁵

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

⁴ Although respondent does not directly argue that the law judge erred nor directly raise another issue for which appeal is available under 49 CFR 821.49, his pro se status suggests some flexibility on our part, and we will not dismiss on this technical basis as the Administrator suggests. The substance of his position reflects respondent's belief that the law judge's findings of fact were in error.

⁵ For the purpose of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. 61.19(f).