

SERVED: July 7, 1992

NTSB Order No. EA-3608

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 19th day of June, 1992

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BARRY LAMBERT HARRIS,	)	
Acting Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-12304
v.	)	
	)	
RICHARD T. MILLANG,	)	
	)	
Respondent.	)	
	)	

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**OPINION AND ORDER**

The respondent has appealed from the oral initial decision Administrative Law Judge William R. Mullins issued in this proceeding on March 19, 1992, at the conclusion of an evidentiary hearing.<sup>1</sup> By that decision, the law judge affirmed an emergency order of the Administrator revoking respondent's First Class Medical and Airline Transport Pilot certificates for his alleged

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<sup>1</sup>An excerpt from the hearing transcript containing the initial decision is attached.

violations of sections 67.20(a)(1) and (2) of the Federal Aviation Regulations, 14 CFR Part 67.<sup>2</sup> We will deny the appeal.

The December 18, 1991 Emergency Order of Revocation alleges, in relevant part, as follows:<sup>3</sup>

1. You are now, and at all times mentioned herein were, the holder of an Airline Transport Pilot Certificate, Registration No. 001290482.
2. On or about August 11, 1989, you applied for and were issued a First-Class Medical Certificate, Registration No. BB-6082001.
3. On the aforesaid application, you stated and indicated in Item 18 that you had never had an FAA airman medical certificate denied, suspended or revoked.
4. In fact, Emergency Orders of Revocation were issued on March 12, 1964 and January 30, 1969, revoking all your airman certificates, including the First-Class Medical Certificate issued to you on May 13, 1968.
5. On October 17, 1989, you were sent a letter by Certified Mail, from Audie W. Davis, M.D., Manager, Aeromedical Certification Division, Civil Aeromedical Institute, advising that by virtue of your history of a disqualifying nervous condition and falsification of an FAA

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<sup>2</sup>Sections 67.20(a)(1) and (2) provide as follows:

**"§67.20 Applications, certificates, logbooks, reports, records: Falsification, reproduction, or alteration.**

- (a) No person may make or cause to be made--
- (1) Any fraudulent or intentionally false statement on any application for a medical certificate under this part;
  - (2) Any fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used, to show compliance with any requirement for any medical certificate under this part...."

<sup>3</sup>Respondent waived his right to expedited review of the Administrator's order under Subpart I of the Board's Rules of Practice, 49 CFR Part 821.

medical examination, you were not qualified for any class of medical certificate.<sup>[4]</sup>

6. On November 15, 1990, a follow-up letter was sent to you in which you were requested to provide a current psychiatric and psychological evaluation, the specifications of which were enclosed in that letter.
7. You responded by writing on the letter which was sent to you that "these examinations were completed satisfactorily some years ago at OKC Hq." You also stated that you had "consistently passed a Class 1 Med. exam since original issued in 1950's."
8. In fact, you have a history of having been found by the FAA to be unqualified to hold an airman medical certificate.

The law judge, on consideration of the evidence presented by the Administrator in support of the foregoing allegations<sup>5</sup> and the respondent's testimony in defense of the charges, concluded that the respondent, as alleged, had violated the cited regulations and, therefore, had demonstrated that he lacked qualification to hold his certificates.

Respondent's two-page, handwritten appeal brief, although presumably reflecting his general disagreement and dissatisfaction with the law judge's affirmation of the revocation order, neither raises any specific objection to any of

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<sup>4</sup>As noted in the Administrator's reply brief, the Board has previously affirmed the conclusion that respondent is not qualified for any class of medical certificate. See Petition of Richard T. Millang, 2 NTSB 529 (1973).

<sup>5</sup>Undisputed in the record is additional evidence submitted by the Administrator that showed that respondent had not just failed to report two medical certificate revocations on the August 11, 1989 application, he had also failed to note on that application, and on four earlier ones, that he had previously had five medical certificate applications denied.

the law judge's findings and conclusions, nor identifies any basis for his apparent, unexplained belief that the Administrator's revocation action is pretextual. Respondent has not, in other words, presented any issue for the Board to consider on review of the law judge's decision. See Section 821.49 of the Board's Rules of Practice.<sup>6</sup> Absent a concrete challenge to the initial decision or revocation order that we are empowered to entertain, respondent's appeal must be rejected.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. Respondent's appeal is denied, and
2. The emergency order of revocation and the initial decision are affirmed.

COUGHLIN, Acting Chairman, LAUBER, KOLSTAD, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

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<sup>6</sup>Section 821.49 provides, in pertinent part, that:

"On appeal, the Board will consider only the following issues:  
(a) Are the findings of fact each supported by a preponderance of reliable, probative, and substantial evidence?  
(b) Are conclusions made in accordance with precedent and policy?  
(c) Are the questions on appeal substantial?  
(d) Have any prejudicial errors occurred?"