

SERVED: November 16, 1994

NTSB Order No. EA-4279

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 10th day of November, 1994

_____)	
GARY JAMES FARLY,)	
)	
Applicant,)	
)	
v.)	
)	Docket 194-EAJA-SE-13163
DAVID R. HINSON,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Respondent.)	
)	
_____)	

ORDER DENYING RECONSIDERATION

The applicant, pro se, has submitted a letter which we will treat as a request for reconsideration of Board Order No. EA-4231 (served August 17, 1994). By that order the Board dismissed as untimely an appeal the applicant, then represented by counsel, had taken from a decision of the law judge rejecting an EAJA application for lack of adequate supporting documentation. The Board found that good cause had not been demonstrated for the late filing. The Administrator has not replied to the letter.

In his letter, the applicant does not argue that our good cause finding was in error. Rather, he suggests that the Board mistakenly indicated that he had been earlier advised by the law judge of the necessity to file a net worth statement. The applicant's point is unavailing. Whether the applicant was personally aware of the order of the law judge that gave him 15 days to file the statement is irrelevant, since both of his

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attorneys were served with the law judge's order.¹ Advice to them was tantamount to advice to him.

ACCORDINGLY, IT IS ORDERED THAT:

The request for reconsideration is denied.

HALL, Chairman, LAUBER, HAMMERSCHMIDT and VOGT, Members of the Board, concurred in the above order.

¹It is also of no consequence that the applicant believes a net worth statement should not be required and that, in any event, 15 days is not enough time to prepare one. Under the Board's regulations, 49 CFR § 826.22, a net worth statement is required to be filed with every EAJA application in order to assess whether an award is permissible under statutory criteria; it is not an obligation a law judge is free to waive. Moreover, assuming that an extension of time to supplement an application with a net worth statement is permitted by law, an assumption which is at best questionable, we note that the applicant had already had at least 30 days to prepare an application which met all of the requirements of the pertinent regulations.