

SERVED: November 13, 1998

NTSB Order No. EA-4718

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 November, 1998

_____)	
JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-14662
v.)	
)	
DAVID A. BABB,)	
)	
Respondent.)	
_____)	

ORDER DENYING REHEARING

Respondent has filed a petition for rehearing, asking that we reconsider our order, EA-4664, served June 3, 1998. In that order, we affirmed the law judge's decision to grant the Administrator's motion for summary judgment, revoking respondent's commercial pilot certificate under FAR section 61.15(a) based on a drug-related criminal conviction. The Administrator has not replied. We deny the petition.

As best we can discern, respondent argues that summary judgment was improperly granted because there are material facts in dispute, namely, the facts supporting the drug-related conviction. To this extent, his petition repeats arguments that were thoroughly considered by the Board in its original decision.

He further asserts that the Administrator was without

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jurisdiction to revoke his pilot certificate under FAR section 61.15(a)(2) because the revocation was based on an "illegal conviction." Again, although respondent refuses to recognize it as such, he is attempting to collaterally attack the underlying conviction. As we have already stated, we cannot entertain a respondent's collateral attack on a criminal conviction. Administrator v. Babb, NTSB Order No. EA-4664 at 2-3 (1998). The fact alone of respondent's conviction of a federal statute related to the possession and distribution of cocaine, irrespective of whether respondent believes he should have been acquitted, is sufficient, under FAR section 61.15(a)(2), to support the Administrator's decision to revoke his airman certificate.

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's petition for rehearing is denied; and
2. The revocation of respondent's commercial pilot certificate shall begin 30 days after the service date of this order.¹

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

¹For the purpose of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to FAR § 61.19(f).