

SERVED: July 7, 2003

NTSB Order No. EA-5046

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

Issued under delegated authority (49 C.F.R. 800.24)  
on the 7th day of July, 2003

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MARION C. BLAKEY,		)	
Administrator,		)	
Federal Aviation Administration,		)	
		)	
Complainant,		)	
		)	Docket SE-16587
v.		)	
		)	
WILLIAM T. MOCCIA,		)	
		)	
Respondent.		)	
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**ORDER DISMISSING APPEAL**

The Administrator has moved to dismiss the notice of appeal in this proceeding because it was not, as required by Section 821.47 of the Board's Rules of Practice (49 CFR Part 821),<sup>1</sup> filed by the respondent within 10 days after the law judge served a written decision and order on February 13, 2003.<sup>2</sup> We will grant

<sup>1</sup>Section 821.47 provides as follows:

§ 821.47 **Notice of Appeal.**

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 served.

<sup>2</sup>The law judge's order granted the Administrator's motion for summary judgment on a complaint seeking the revocation of respondent's private pilot certificate (No. 261557314) pursuant to 49 U.S.C. § 44710 and section 61.15(a)(2) of the Federal Aviation Regulations, 14 CFR Part 61, for his federal court drug

the motion.

The time for filing a notice of appeal in this matter expired on February 24<sup>th</sup> (since the 23<sup>rd</sup> was a Sunday). Respondent's notice was not filed until February 28<sup>th</sup>, or four days late. The law judge's decision clearly indicated that any notice of appeal needed to be filed within 10 days after service of the order. The service date appeared on the face of the order.

Without good cause to excuse a failure to file a notice of appeal on time, a party's appeal will be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988). Respondent's mistaken assumption, contrary to clear advice provided with the order, that he would have 10 days from the date he received the law judge's decision to file a notice of appeal, does not constitute good cause for the tardy submission.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. The respondent's notice of appeal is dismissed.

Ronald S. Battocchi  
General Counsel

(..continued)  
convictions.