

SERVED: February 27, 2004

NTSB Order No. EA-5081

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

Issued under delegated authority (49 C.F.R. 800.24)
on the 27th day of February, 2004

MARION C. BLAKEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-16898
v.)	
)	
RUBEN FERNANDEZ,)	
)	
Respondent.)	
)	

ORDER DISMISSING APPEAL

On November 4, 2003, the respondent filed a notice of appeal from an order entering judgment on the pleadings that the law judge served in this proceeding on October 23, 2003. Section 821.47 of the Board's Rules of Practice (49 CFR Part 821),¹ requires that an appeal from a decision of a law judge be filed

¹Section 821.47 provides, in part, as follows:

§ 821.47 **Notice of Appeal.**

A party may appeal from a law judge's initial decision or appealable order by filing with the Board, and simultaneously serving upon the other parties, a notice of appeal, within 10 days after the date on which the oral decision was rendered or the written initial decision or appealable order was served.

within 10 days after service of the order.²

The time for filing a notice of appeal in this matter expired on November 3rd (since the 2nd was a Sunday). Respondent's notice was not filed until November 4th, or one day 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 timely notice of appeal, or a request to file one out of time before it was due, a party's appeal will be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

The respondent's notice of appeal is dismissed.

Ronald S. Battocchi
General Counsel

²The law judge granted judgment on the pleadings to the Administrator on a complaint seeking the revocation of any and all FAA-issued airman certificates held by respondent, including private pilot certificate no. 545256082, pursuant to section 61.15(a)(2) of the Federal Aviation Regulations, 14 CFR Part 61, for his federal court drug conviction.