

error in our original decision nor otherwise presents a valid basis for reconsidering that decision. Furthermore, and more importantly, even if the evidence now presented were considered to be "new," it is not relevant to the issue of whether respondent committed the violations as alleged.

Respondent claims that new evidence raises further doubt as to Mr. Dunn's credibility. We previously rejected respondent's argument, finding, as did the law judge, that Mr. Dunn was more credible than respondent. Respondent now argues that actions subsequent to the hearing suggest that Mr. Dunn altered his testimony in exchange for favorable treatment as to his own revocation.

In his reply, the Administrator includes an affidavit from the regional counsel stating that there has been no *quid pro quo* regarding Mr. Dunn's testimony and the Administrator's decision to amend Mr. Dunn's sanction. The Administrator also points out that ten of the twelve exhibits accompanying respondent's petition for reconsideration were used at the hearing or are excerpts from the transcript. The material that respondent may argue is new material includes: (1) FAA records reflecting that, on June 14, 2007, Mr. Dunn's certificates were no longer under suspension; and (2) a March 20, 2007 letter from Mr. Dunn's attorney, requesting that the revocation of Mr. Dunn's certificates be changed to a suspension. Here is a synopsis of the arguably new information: respondent's hearing concluded on March 14, 2007. On March 20, 2007, Mr. Dunn's counsel requested that the Administrator change the revocation of Mr. Dunn's certificates to a suspension. The Administrator granted this request on March 28, 2007.

We need not decide whether this new information or these exhibits constitute new evidence under 49 C.F.R. § 821.50(c)¹ because, even assuming they were, our conclusions would not change. We have long held that we defer to the credibility determinations of our law judges, who are in the position of observing live testimony and the demeanor of witnesses, unless those determinations are shown to be clearly erroneous.² At the

¹ Title 49 C.F.R. 821.50 provides, in part:

(a) ... Any party to a proceeding may petition the Board for ... reconsideration....

* * *

(c) ... If the petition is based ... upon new matter, it shall set forth such new matter....

(d) ... Repetitious petitions will not be entertained by the Board, and will be summarily dismissed.

² See, e.g., Administrator v. Exousia, NTSB Order No. EA-5319 at 2 (2007), citing Administrator v. Smith, 5 NTSB 1560, 1563 (1986).

conclusion of the hearing, after evaluating the evidence and the credibility of witnesses, the law judge stated:

...Mr. Dunn's testimony may or may not be in question because there were conflicting statements that he made relative to peripheral matters, but his testimony was consistent all the way through ... that sometime after 28 February ... of 2005, that Ms. Hodges presented Mr. Dunn with her [CFI], and asked him to renew it. ... [H]e didn't get to it right away, but when he did that same day ... he ... advised her that it had expired.

Initial Decision at 338-39. The law judge then stated that his decision turned even more on respondent's credibility, or, rather, the lack thereof. Id. at 339-40.

Respondent's arguments are generally duplicative of those in her appeal, but considering the record again, even in light of the other information respondent presents, we see nothing that would cause us to reverse or modify our previous conclusion. We decided the case based, not just on the law judge's determination of the credibility of Mr. Dunn, but also on the law judge's determination of the credibility of respondent.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's petition for reconsideration is denied.

ROSENKER, Chairman, SUMWALT, Vice Chairman, and HERSMAN, HIGGINS, and CHEALANDER, Members of the Board, concurred in the above order.