

SERVED: March 17, 1993

NTSB Order No. EA-3822

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 9th day of March, 1993

JOSEPH DEL BALZO)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-11330
v.)	
)	
LAWRENCE R. SHUSTER,)	
)	
Respondent.)	
)	

ORDER DENYING PETITION FOR RELIEF

In NTSB Order EA-3613, served July 14, 1992, we dismissed an order of the Administrator, in which he proposed to revoke respondent's private pilot and third class medical certificates.

We found, for various reasons not pertinent here, that the Administrator's charges were not sustainable. Apparently, respondent had earlier surrendered his pilot and medical certificates and, because the FAA has allegedly declined to return those certificates despite our ruling in respondent's favor, he now asks that we direct it to do so. The Administrator

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has replied in opposition, arguing that we have no such authority.¹

Despite the Administrator's failure to respond directly and indicate why he has refused to return respondent's certificates, we conclude that we lack jurisdiction to require him to do so. In Administrator v. Florida West Airlines, Inc., 5 NTSB 992, 993 (1986), we stated:

The Board has no general supervisory role with regard to any FAA function and such authority that we do have over FAA orders affecting carrier certificates is limited to the amendment, modification or reversal of those orders which we have concluded under the air safety standard in Section 609 should not be affirmed.

Ordering the Administrator to return a certificate is not within this scope of activities, nor does it appear to be necessary to the full exercise of our functions. Without presuming to know the defenses available to the Administrator, respondent has a much more direct remedy in Federal District Court.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's request for mandamus or show cause is denied.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above order.

¹The Administrator also argues that return of respondent's pilot certificate is a moot point, as respondent has no current medical certificate. We fail to see what bearing this has on the issue of whether respondent is entitled to return of his certificates, expired or not.