

SERVED: February 28, 1995

NTSB Order No. EA-4328

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 23rd day of February, 1995

DAVID R. HINSON,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-12959
v.)	
)	
CHARLES C. POWELL,)	
)	
Respondent.)	

ORDER DENYING STAY

Respondent, by counsel, has requested a stay of NTSB Order EA-4299, served December 9, 1994, pending review of that order by the United States Court of Appeals for the Fourth Circuit pursuant to Section 1006 of the Federal Aviation Act (49 U.S.C. 46110) and the NTSB Rules (49 C.F.R. 821.64(b)).¹ The Administrator has filed a response, opposing the request.

We generally grant stays of our orders pending judicial review when the suspension affirmed is for less than 6 months. We consistently deny stays in cases involving certificate revocation because revocation is based on a conclusion that the airman lacks the qualifications required of a certificate holder. Cases in between -- involving suspensions of 6 months or more -- are evaluated on a case-by-case basis, considering the seriousness of the violations. See Administrator v. Reinhold, NTSB Order EA-4224 (1994).

¹Board Order EA-4299 affirmed a 180-day suspension of respondent's commercial pilot certificate.

In our judgment, respondent's conduct here reflects a disregard for aviation safety that warrants denial of the requested stay. Respondent recklessly took off under VFR (visual flight rules) weather conditions from an airport within a control zone, when the weather was below VFR minimums. Moreover, at the time of his takeoff, there was traffic both inbound and on the runway in front of him. Respondent's actions created a significant potential for endangerment to others. Under these circumstances we believe a stay of our order would be inappropriate.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's motion for stay is denied.

HALL, Chairman, FRANCIS, Vice Chairman, and HAMMERSCHMIDT, Member of the Board, concurred in the above order.