

SERVED: October 9, 1996

NTSB Order No. EA-4489

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

Issued under delegated authority (49 C.F.R. 800.24)
on the 9th day of October, 1996

_____)	
DAVID R. HINSON,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-14225
v.)	
)	
CARLYLE SMITH HARRIS,)	
)	
Respondent.)	
_____)	

ORDER DISMISSING REQUEST FOR STAY

Respondent, *pro se*, has requested a "Stay of Execution" of NTSB Order EA-4475, served August 16, 1996, pending disposition of a petition for review of that order to be filed in the United States Court of Appeals for the Fifth Circuit, pursuant to Section 1006 of the Federal Aviation Act (49 U.S.C. 1486) and the NTSB Rules (49 C.F.R. 821.64).¹ No answer to the request has been received. The request will be dismissed, as the Board's order did not sustain or authorize any certificate action that could be stayed.

While the Administrator's order of suspension in this case did indicate that the alleged violations justified a 30-day suspension of respondent's commercial pilot certificate, it also referenced the fact that the Administrator had determined that respondent was entitled to a waiver of penalty under the Aviation Safety Reporting Program. In other words, even if the respondent

¹Board Order EA-4475 denied an appeal from the law judge's grant of summary judgment for the Administrator on charges that the respondent had violated sections 91.123(a) and 91.13(a) of the Federal Aviation Regulations ("FAR," 14 CFR Part 91) by deviating from an Air Traffic Control altitude clearance without obtaining an amended clearance.

had not appealed the suspension order to the Board, he would not have been required to give up his certificate for any period of suspension. Since the purpose of a stay of a Board order pending judicial review is to allow an airman to retain a certificate (i.e., avoid service of suspension period we have upheld) while a court considers the matter, the issuance of a stay here would have no significance, practical or otherwise.

ACCORDINGLY, IT IS ORDERED THAT:

The respondent's request for a stay is dismissed.

Daniel D. Campbell
General Counsel