

SERVED: August 16, 2001

NTSB Order No. EA-4905

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

Issued under delegated authority (49 C.F.R. 800.24)
on the 16th day of August, 2001

_____)	
JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket CP-87
v.)	
)	
WILLIAM C. DAVIS,)	
)	
Respondent.)	
)	
_____)	

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the notice of appeal to the Board in this proceeding because it was not, as required by Section 821.47 of the Board's Rules of Practice (49 CFR Part 821),¹ filed by the respondent within 10 days after the law judge on May 11, 2001, served a written order granting the Administrator's motion to dismiss as untimely respondent's appeal

¹Section 821.47 provides as follows:

§ 821.47 **Notice of Appeal.**

A party may appeal from a law judge's order or from the initial decision by filing with the Board and serving upon the other parties (pursuant to § 821.8) a notice of appeal within 10 days after an oral initial decision or an order has been served.

from a civil penalty assessment order issued by the Administrator. We will grant the motion,² to which respondent has filed an answer.³

Without good cause to excuse a failure to file a notice of appeal or appeal brief on time, a party's appeal will be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988). Respondent's apparent belief that the relevant time periods run from the date of his receipt of the law judge's order, which clearly specified a service date on its face, rather than from the date on which it was sent to him, does not provide legal justification for his tardy filings.

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

Ronald S. Battocchi
General Counsel

²Respondent's notice of appeal, due on May 21, 2001, was undated, but accompanied by a certificate of service dated and postmarked May 23.

³The Administrator also asserts that even if the notice had been timely filed, the appeal was not perfected by the timely filing of an appeal brief; that is, within 30 days of the service date of the law judge's May 11 order. See 49 C.F.R. Section 821.48(a). Respondent's undated appeal brief, attached to which was a motion for discovery, was postmarked on June 13, 2001.