

SERVED: October 31, 2007

NTSB Order No. EA-5333

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

Issued under delegated authority (49 C.F.R. § 800.24)  
on the 31<sup>st</sup> day of October, 2007

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PETITION OF )

ROBERT BERRY )

for review of the denial by )  
the Administrator of the )  
Federal Aviation Administration )  
of the issuance of an airman )  
medical certificate )

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Docket SM-4822

**ORDER DISMISSING APPEAL**

On August 3, 2007, petitioner, through counsel, filed a timely notice of appeal from the law judge's July 26, 2007 order dismissing the petition and terminating the proceeding.<sup>1</sup> However, petitioner did not subsequently file a timely appeal brief,<sup>2</sup> and has not provided good cause for this failure. His appeal is therefore subject to dismissal under Section 821.48(a)

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<sup>1</sup> The law judge dismissed the petition for review of the denial by the Administrator of the issuance of an airman medical certificate because of a specifically disqualifying medical condition (coronary artery disease requiring treatment) under 14 C.F.R. §§ 67.111(a)(3), 67.211(c), and 67.311(c).

<sup>2</sup> Petitioner's appeal brief was due no later than August 27, 2007.

of the Board's Rules of Practice (49 C.F.R. Part 821).<sup>3</sup> We note that, as of the service date of this order, we have not received an appeal brief from petitioner.

Without good cause to excuse a failure to file a timely appeal brief, or a request to file one out of time before it is due, a party's appeal will be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

Petitioner's appeal is dismissed.

Gary L. Halbert  
General Counsel

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<sup>3</sup> Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal brief....each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.