

SERVED: December 16, 2013

NTSB Order No. EA-5693

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 13th day of December, 2013

_____)	
MICHAEL P. HUERTA,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	
v.)	Docket SE-19548
)	
EITAN LEASCHAUER,)	
)	
Respondent.)	
)	
_____)	

ORDER DISMISSING PETITION FOR RECONSIDERATION

Respondent, who proceeds *pro se*, has filed a timely petition for reconsideration of NTSB Order No. EA-5680, wherein the Board affirmed the law judge’s order suspending respondent’s private pilot certificate, pending respondent’s successful completion of a reexamination under 49 U.S.C. § 44709, after respondent took off from a controlled airfield without obtaining the proper air traffic control clearance. Respondent contends our analysis of the law judge’s determination was incorrect.

Section 821.50 of our Rules of Practice govern the submission and our review of petitions for rehearing, reargument, reconsideration or modification of an order of the Board. In a Final Rule that took effect November 15, 2012,¹ we amended § 821.50(c) to provide as follows concerning the content of such petitions:

The petition shall state briefly and specifically the matters of record alleged to have been erroneously decided, and the ground or grounds relied upon. If the petition is based, in whole or in part, upon new matter, it shall set forth such new matter and shall contain affidavits of prospective witnesses, authenticated documents, or both, or an explanation of why such substantiation is unavailable, and shall explain why such new matter could not have been discovered in the exercise of due diligence prior to the date on which the evidentiary record closed. *To the extent the petition is not based upon new matter, the Board will not consider arguments that could have been made in the appeal or reply briefs received prior to the Board's decision.*²

In addition, section 821.50(d) states, “[r]epetitious petitions will not be entertained by the Board, and will be summarily dismissed.”

In our October 1, 2013 opinion and order, we considered respondent’s arguments concerning tampering with air traffic control tapes, impartiality of the law judge, and reasonableness of the Administrator’s request for reexamination. This petition, dated October 7, 2013, presents the same arguments we considered and rejected on review of respondent’s appeal.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent’s petition is dismissed.

HERSMAN, Chairman, HART, Vice Chairman, and SUMWALT, ROSEKIND, and WEENER, Members of the Board, concurred in the above opinion and order.

¹ 77 Fed. Reg. 63245, 63252 (Oct. 16, 2012).

² 49 C.F.R. § 821.50(c) (emphasis added).