

NTSB Order No.
EM-42

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 20th day of March, 1975

CHESTER R. BENDER, Commandant, United States Coast Guard,

vs.

TERRY FLEMMINGS, Appellant.

Docket ME-34

ORDER DISMISSING APPEAL

This appeal was taken from Commandant's Decision No. 1934,¹ affirming the revocation of appellant's merchant mariner's document (No. Z-1283500) for misconduct aboard ship.² Counsel for the Commandant has moved to dismiss the appeal for the reason that appellant has failed to file a brief, as required by the Board's rules of practice.³ Appellant has failed to file an answer to the motion, served September 25, 1974.

From the above, it is apparent that although appellant filed a timely notice of appeal, he thereafter failed to perfect his appeal by filing brief or memorandum in support of his appeal which

¹Admiral O. W. Siler has succeeded to the Office of Commandant, United States Coast Guard, during the pendency of this appeal.

²The Commandant's action was based on findings that appellant was wrongfully in possession of 19.3 grams of marijuana while serving under authority of his document, as a fireman/watertender, on board the SS ALBANY, a merchant vessel of the United States.

³14 CFR 425.20(a) provides that "...Within 20 days after the filing of a notice of appeal, the appellant must file...a brief or memorandum in support of the appeal." 14 CFR 425.30(a) further provides that "If timely action to perfect an appeal under§425.20 is not taken by an appellant, the Board will, on its own motion or on motion of the Coast Guard, dismiss the appeal."

is therefore subject to dismissal.⁴

ACCORDINGLY, IT IS ORDERED THAT:

1. The Commandant's motion be and it hereby is granted; and
2. Appellant's appeal be and it hereby is dismissed.

⁴Commandant v. Peters, 1 N.T.S.B. 2152, ORDER EM-2, adopted December 4, 1968.