

NTSB Order No.
EM-53

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

Issued under delegated authority (49 CFR 800.24)
on the 12th day of October 1976

OWEN W. SILER, Commandant, United States Coast Guard,

v.

SIMONNE ANDREE DESVAUX, Appellant.

Docket ME-62

ORDER GRANTING STAY OF DECISION ON MOTION
TO PERMIT LATE FILING OF NOTICE OF APPEAL

Appellant, through her attorney, has requested that the Board grant her permission to file a late notice of appeal in the above matter, pending action by the U.S. District Court for the Southern District of New York on a motion by the Commandant to dismiss the action on the grounds that appellant did not exhaust her administrative remedies prior to appealing to the Court and further that the District Court is not the proper forum for the action.

The Commandant's decision dated March 19, 1976, affirmed the decision of the Administrative Law Judge, suspending appellant's Merchant Mariner's Document. Section 825.5 of the Board's Rules of Procedure for Merchant Marine Appeals from Decisions of the Commandant, U.S. Coast Guard, (49 CFR 825.5) requires the filing of a notice of appeal with the Board within 10 days after service of the Commandant's decision upon the party or the designated attorney. However, upon good cause shown, the time for filing may be extended. The Board has not reviewed this administrative proceeding on the merits. Notwithstanding the lapse of time since the notice of appeal should have been filed, we find that good cause has been shown for granting a stay with respect to the determination of the motion before us to permit the late filing of a notice of appeal.

ACCORDINGLY, IT IS ORDERED THAT:

Determination of the motion to permit late filing of the notice of appeal herein, be and it hereby is stayed until such time as the U.S. District Court for the Southern District of New York either decides the motion of the Commandant to dismiss appellant's

appeal or takes action with respect to that appeal.

FRITZ L. PULS

(SEAL)