

NTSB Order No.  
EM-89

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 25th day of August, 1981

J. B. Hayes, Commandant, United States Coast Guard,

vs.

GARY LEE FAIRALL, Appellant.

Docket No. ME-82

ORDER DISMISSING APPEAL

On March 14, appellant filed a notice of appeal from the Commandant's decision on Appeal No. 2183, dated February 21, 1980. <sup>1</sup> Appellant was thereafter granted an extension of time to file an appeal brief, but has not done so. <sup>2</sup> On June 22, 1981, the Coast Guard moved to dismiss the appeal for failure to file an appeal brief, as required by the Board's rules of practice. <sup>3</sup> Appellant has not answered the motion.

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<sup>1</sup>The Commandant affirmed the revocation of appellant's merchant mariner's document (No. Z-568-46-3823-D2) for misconduct aboard ship. The revocation order was entered, pursuant to 46 U.S.C. 239, by Administrative Law Judge Russell A. Stantey following a full evidentiary hearing. The Board's authority to review the Commandant's decision is set forth at 49 U.S.C. 1903 (a)(9)(B).

<sup>2</sup>It should be noted that the Coast Guard was responsible for the original delay in not filing the record of the hearing until May 22, 1981.

<sup>3</sup>49 CFR 825.20 provides, in pertinent part, as follows:  
"§852.20 Briefs in support of appeal.

(a) Within 20 days after the filing of a notice of appeal, the appellant must file... a brief in support of the appeal.

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(e) If a party who has filed a notice of appeal does not perfect the appeal by the timely filing of an appeal brief, the Board may dismiss the appeal on its own initiative or on motion of the Coast Guard.

From the above, it is apparent that appellant has failed to perfect his appeal, which is therefore subject to dismissal.

ACCORDINGLY, IT IS ORDERED THAT:

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

KING, Chairman, DRIVER, Vice Chairman, McADAMS, and GOLDMAN, Members of the Board, concurred in the above order. BURSLEY, Member, did not participate.