

NTSB Order No.
EM-99

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 17th day of May, 1983

JAMES S. GRACEY, Commandant, United States Coast Guard,

v.

ROBERT BEAUMONT ARNOLD, Appellant.

Docket No. ME-92

ORDER DISMISSING APPEAL

This appeal, docketed with the Board on December 6, 1982, was taken from Commandant's Decision No. 2280, dated July 22, 1982.¹ The Commandant therein affirmed the finding of Administrative Law Judge H. J. Gardner, entered in an order dated September 9, 1981, that the charge of misconduct against appellant had been proved. A ten month suspension of appellant's merchant mariner's document (License No. Z515 14 9333 D4) was imposed. Counsel for the Coast Guard has moved to dismiss the appeal for appellant's failure to file an appeal brief, as required by the Board's Rules of Practice.² No answer to the motion, served on February 23, 1983, has been received from the appellant.

Our rules expressly provide for the dismissal of appeals which have not been perfected by "the timely filing of an appeal brief" (49 CFR §825.20(e)). As it appears that appellant has not filed such a brief, his appeal is subject to dismissal.³

¹Under 46 CFR §825.5, a notice of appeal must be filed within 10 days after service of the Commandant's decision. The decision at issue here was served July 27, 1982. Appellant's notice of appeal contained no explanation for the lengthy delay in filing the notice.

²46 CFR §825,20(a) provides that an appellant must file a brief in support of an appeal "[w]ithin 20 days after filing the notice of appeal."

³Commandant v. Nelson, 2 NTSB 2810 (1976).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Coast Guard's motion to dismiss is granted; and
2. The appellant's appeal is dismiss.

BURNETT, Chairman, GOLDMAN, Vice Chairman, McADAMS, BURSLEY and ENGEN, Members of the Board, concurred in the above order.