

NTSB Order No.
EM-105

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 27th day of January, 1984

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

v.

HORACE DUGGINS, JR.

Appellant.

Docket No. ME-94

ORDER DISMISSING APPEAL

By NTSB Order EM-100 (served October 19, 1983), the Board denied a motion to dismiss filed by the Coast Guard in this proceeding. That motion had sought the dismissal of the instant appeal for appellant's failure to perfect his appeal by filing a timely brief. We concluded on review of the pleadings that appellant's failure to comply with the procedural requirement resulted from a lack of knowledge of our rules rather than from a lack of diligence in prosecuting the appeal. We accordingly allowed appellant until November 30, 1983 to file an appeal brief.

On December 9, 1983, the Coast Guard filed a second motion to dismiss. In it the Coast Guard asserts that appellant has not filed an appeal brief in accordance with the extension of time granted for that purpose in Order EM-100. Dismissal of the appeal is thus again sought for appellant's failure to file a brief in support of his appeal. No reply to the motion has been received.

In view of the foregoing it appears that appellant has failed to comply with our rules for perfecting his appeal despite ample opportunity to do so and that his appeal is subject to dismissal on the Coast Guard's motion under Rule 20 (e) of our rules of procedure.¹

¹ Rule 20 (e), 49 CFR 825.20 (e), provides that:
"§825.20 Briefs in support of appeal.

* * * * *

(e) If a party who has filed a notice of appeal

ACCORDINGLY, IT IS ORDERED THAT:

1. Coast Guard's motion to dismiss is granted; and
2. Appellant's appeal is dismissed.

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

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."