

NTSB Order No.
EM-159

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 10th day of May, 1991

J.W. KIME, Commandant, United States Coast Guard,

v.

ANTONIO ESTRADA, JR., Appellant.

Docket ME-145

ORDER DISMISSING APPEAL

The Commandant has moved to dismiss the appeal filed in this proceeding because the appellant did not, as required by Section 825.20(a) of the Board's Rules of Practice,¹ file a brief in support of his appeal by November 29, 1990; that is, within 20 days after the notice of appeal was filed.² See 49 CFR Part 825. No brief has to date been filed, and no answer to the Commandant's motion to dismiss, served December 14, 1990, has been received.

Pursuant to Section 825.20(e) of the Board's rules, the failure to file a timely appeal brief is grounds for dismissal on motion of the Coast Guard.³ In the absence of good cause excusing

¹Section 825.20(a) provides as follows:

"§ 825.20 Briefs in support of appeal.

(a) Within 20 days after the filing of a notice of appeal, the appellant must file, in the same manner as prescribed for the notice in §825.5, a brief in support of the appeal."

²The appeal is from a decision of the Commandant (Appeals No. 2516) affirming a probated suspension of appellant's merchant mariner's document and license that had been ordered by a Coast Guard administrative law judge following an evidentiary hearing on a charge of negligence.

³Section 825.20(e) provides as follows:

"§ 825.20 Briefs in support of appeal.

appellant's procedural default, the motion to dismiss will be granted.

ACCORDINGLY, IT IS ORDERED THAT:

1. The motion to dismiss is granted, and
2. The appeal is dismissed.

KOLSTAD, Chairman, COUGHLIN, Vice Chairman, LAUBER, BURNETTE, and HART, Members of the Board, concurred in the above order.

(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."