

FCC MAIL SECTION

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 94M-121
51359

In the Matter of the) WT DOCKET NO. 95-35
)
Application of)
)
GEORGE E. RODGERS)
Downingtown, Pennsylvania)
)
For Amateur Station and)
Operator Licenses)

MEMORANDUM OPINION AND ORDER

Issued: May 10, 1995 ; Released: May 12, 1995

Under consideration is the Motion to Dismiss, filed by the Chief, Wireless Telecommunications Bureau (Bureau), on May 9, 1995.

By *Hearing Designation Order* (DA 95-705), released April 12, 1995, the application of George E. Rodgers, for a renewal of his amateur service station and operator licenses was designated for hearing on the following issues:

- (a) To determine whether, in light of the facts determined in *Commonwealth of Pennsylvania v. Rodgers*, Docket No. 2300-93 (Court of Common Pleas, Chester County, Pa.), George E. Rodgers' is qualified to renew his amateur service license.
- (b) To determine, in light of the foregoing issue, whether granting George E. Rogers' application would serve the public interest, convenience and necessity.

Mr. Rodgers was advised in paragraph six (6), of the aforementioned Order of the requirement, under Section 1.221 of the Commission's Rules, 47 C.F.R. Section 1.222., that he file a notice of appearance with the Commission's Secretary no later than 20 days after the release date of the Commission's Order setting his application for oral hearing.

The Bureau seeks, in its motion, an order of the Presiding Judge dismissing Mr. Rodgers' application on the basis that he has not filed the required notice of appearance within the prescribed period of time, thereby effectively waiving his right to a hearing; and that his application for a renewal of his licenses, therefore, should be dismissed.

Mr. Rodgers was properly advised that his application for renewal had been set for hearing, and that in order to avail himself of the opportunity for a hearing on the issue designated by the Commission, he would have to file a notice of appearance within the required time. The Bureau and this office have no record of such an appearance being filed, or, in the alternative, of a formal request from Mr. Rodgers for additional time within which to file such a notice. Accordingly, the Presiding Judge finds good cause for granting the relief sought by the Bureau, and its motion will be granted, and Mr. Rodgers' application dismissed with prejudice for failure to prosecute.

IT IS ORDERED, that the Motion to Dismiss, filed by the Chief, Wireless Telecommunications Bureau, on May 9, 1995, IS GRANTED; and the application of George E. Rodgers, for an amateur station and operator licenses IS DISMISSED WITH PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION



Joseph P. Gonzalez
Administrative Law Judge