

follow it.

Q. The Commission's Rule Against Indecency In the Amateur Service [Part 97, §97.113(a) (4)] Is Unconstitutionally Vague And Cannot Be Enforced.

The ALJ lies again by claiming that Applicant admitted transmitting any indecent materials. I *never* admitted doing so. My answers to said interrogatories made it clear that I do not believe the Commission's indecency standard is legal or enforceable, and therefore it does not exist, so I am free to say whatever I want to on the air. In other words, there is *no such thing* as "indecency" in amateur radio. Applicant is entitled to discuss such matters as fellatio, cunnilingus, oral-anal sex, conventional sexual intercourse, sex organs, excretory functions, homosexual sex, lesbian sex and the like on the amateur radio bands; there is absolutely nothing the ALJ or the Commission can do about it; and Applicant intends to continue to discuss such subjects whenever he feels like it. Obviously, the ALJ has either not read, or intends to ignore, the Second Circuit's recent decision in the Fox v. FCC remand²⁸, which *agreed with Applicant* that the Commission's indecency standard is illegal as unconstitutionally overbroad, *even as to broadcasters*. Therefore the Commission *has no* indecency rule to enforce (at least until the Solicitor General filed a petition for certiorari with the Supreme Court), and for the ALJ to claim that Applicant "admitted transmitting indecent materials" represents a deliberate lie. Applicant is free to say whatever he wants to say on the air; he intends to continue to do so; and the Commission cannot second-guess what he says. The Fox v. FCC remand decision applies a fortiori to amateur operators because the Commission's authority to regulate the free-speech rights of broadcasters is based on the profitmaking nature of their enterprise and the limited number of available broadcast channels²⁹, neither of which applies to amateur radio. The Commission simply has no public to protect in positing an indecency standard for amateur radio because amateurs are their own "public".

R. Part 97 Contains Nothing That Prohibits Amateur Operators From Playing Recordings On The Air, and Therefore It Is Perfectly Legal and Permissible to Do So.

²⁸ Docket Nos. 06-1760, etc., decided July 13, 2010.

²⁹ Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969).

The ALJ's warm ventilation (Order 10M-04) continues by claiming that there is something illegal about playing recordings on the amateur radio. This is complete nonsense and another deliberate distortion of the law by the ALJ. Nothing in Part 97 prohibits the playing of recordings in the amateur service, and Applicant defies the ALJ to point out where it does. It is perfectly legal and permissible for amateurs to play recordings as part of a two-way communication. In claiming otherwise, the ALJ is just trying to bootstrap a character rule case against Applicant.

S. The ALJ Has Not, And Cannot, Specify Anything Illegal or Improper About Applicant's Message Left on The Message Board Of Emily Burnham, K6WGB, And It Therefore Does Not Reflect On Applicant's Character.

The ALJ's highly-prejudicial, unfounded, illegal and wrongful defamation of Applicant continues when he suggests or implies there was something wrong or illegal about the message he left on the message board of Emily Burnham, K6WGB, yet, significantly, the ALJ deliberately fails to quote the actual content of said message. There was absolutely nothing wrong or illegal about what Applicant posted on Emily Burnham's message board. Applicant hereby challenges the ALJ to quote exactly what the message said, and explain why it was improper or illegal. The ALJ cannot do so because the entire allegation is a complete distortion of the truth.

T. The ALJ, Bureau Staff and its Counsel Have Made An Unjustified, Unprivileged Attack On Applicant's Character Based On No Evidence Whatsoever, and They Should Not Be Surprised That He Would Defend Himself From Such False Charges, Nor Does It Constitute Abuse Of Process For Him To Do So.

The ALJ deceitfully and immorally accuses Applicant of impeding the hearing process with "harassment of opposing parties which threatens the integrity of the Commission's licensing process". This is absolute poppycock. It is instead Riley Hollingsworth who is guilty of such harassment, by illegally telling other stations not to talk to me, by calling me a "dickhead", by trying to set me up for an illegal jamming violation, by calling my responses "irrelevant and frivolous" even though they were clearly responsive and pertinent, by admittedly refusing to read anything I said in my own defense and by pursuing an illegal vendetta against me simply because I pointed

out his utter incompetence. It was Scot Stone who is guilty of harassment by illegally claiming I have bad character without any factual predicate for doing so. It was Bureau Counsel who have harassed me by falsely claiming my papers were filed when received when they were not; and by attempting to distort the true nature of the Commission's character rule so as to include someone who has led an exemplary life. And it is the ALJ who continues to harass me by immorally and illegally accusing me of having bad character, of violating Part 97 when there is absolutely no proof thereof, by refusing to follow the pertinent court decisions, refusing to respect the U.S. Constitution and by running scared of the PSHSB, thereby trampling Applicant's constitutional and due process rights. It is instead the ALJ who has bad character herein. The ALJ obviously has no respect for the public or Commission licensees, even though they are paying the taxes that provide his salary. Moreover, the ALJ is clearly wrong by supposedly relying on "47 CFR §1.52" to support his contentions, when §1.52 says nothing of the kind. It instead only deals with the proper method of subscription and verification of pleadings. Furthermore, the ALJ's attempt to rely on 47 CFR §1.24 is entirely phony and fatuous because §1.24 applies only to attorneys who appear in a representative capacity before the Commission. Applicant is not appearing in a representative capacity herein; he is representing himself pro se. The ALJ is simply trying to concoct an "abuse of process" violation from nothing. There is no such doctrine, except in very special circumstances which do not apply to this case, nor can an "abuse of process" claim be supported by FCC bootstrap. Neither §1.24 or §1.52 say what the ALJ claims they say. Applicant has "concocted" nothing. The ALJ cites absolutely no legal authority for the proposition that the Enforcement Bureau and the ALJ are entitled to falsely degrade, disparage and defame him publicly, but that Applicant cannot criticize them in defending himself. If Bureau Counsel and the ALJ don't like being criticized, then they should never have started falsely disparaging Applicant. They started this disreputable behavior, and now they're showing themselves to be such weaklings that they cannot accept the same treatment they dish out. If Bureau Counsel or the ALJ had any sense of decency, they would apologize to Applicant for all of the unfounded defamatory statements they have made about him, but since they have no decency, of course they refuse to do so.

The ALJ and Bureau Counsel should bear in mind that their conduct toward Applicant in this case gives rise to liability for a deliberate and malicious violation of his civil rights under 44

U.S.C. §1983. Applicant's pleadings and statements herein are all fully-protected and absolutely privileged under the 5th Amendment and because they are compelled under Commission Rule 1.17, but Bureau Counsel's and the ALJ's misconduct is *not* privileged because it constitutes a malicious and illegal attempt to deprive Applicant of his civil rights under the Constitution. Not even judicial immunity protects a judge from liability in such circumstances.

The ALJ claims he has the right to modify the issues without regard to any time limits, so as to add the issue of Applicant's so-called "abuse of process" to the previously-enunciated issues herein. Yet when Applicant requested permission to modify the issues to add that of Riley Hollingsworth's abuse of discretion, the ALJ refused the request under Rule 1.229 because Applicant had not made the motion within 20 days of the issuance of the Hearing Designation Order. Again, the ALJ is attempting to construct an illegal, immoral, perniciously-tilted playing field where Applicant is guilty until proven innocent, and when he tries to defend himself he is found in contempt. It is not Applicant's "antics" or actions that are threatening the Commission's licensing process; it is the Bureau's and the ALJ's own illegal and immoral actions which are doing so.

The ALJ is again entirely mistaken by trying to liken my attempts to defend myself against the Commission's false and illegal charges to the licensee conduct appearing in David Ortiz Radio Corp. v. FCC, 941 F. 2d 1253 (1991), when that case is clearly distinguishable from the instant case on its facts. The applicant in Ortiz was found to have lied in his application about the availability of his proposed transmitting site,³⁰ while Applicant has *never* lied to the Commission about anything herein. Furthermore, the Commission found that Ortiz's business partner fraudulently impersonated an FCC official in order to examine the transmitter site of a rival applicant.³¹ Applicant herein has never done anything of the kind. In addition to showing the strictly limited circumstances in which the "abuse of process" doctrine applies (none of which circumstances appear in this case), his purported "interpretation" of Ortiz shows just how hard the ALJ is trying to illegally shaft Applicant.

WHEREFORE, Applicant prays that abuse of process charges indeed be added to the case with respect to the conduct of Riley Hollingsworth, Scot Stone, Judy Lancaster and the ALJ himself (but not Applicant's conduct, because Applicant has done absolutely nothing wrong) in

30 Id. at p. 1255.

31 Id. at p. 1256.

illegally, wrongfully, deceitfully and immorally lying about Applicant, publicly defaming him for no reason whatsoever except that they have a vendetta against him, and for attempting to deny him his legal and constitutional rights herein without due process of law.

I declare under penalty of perjury that the foregoing is true and correct, and that all of the statements contained herein are absolutely privileged as being compelled by Commission Rule 1.17.

Dated: September 21, 2010.

A handwritten signature in cursive script that reads "William F. Crowell".

William F. Crowell, Licensee/Applicant

PROOF OF SERVICE BY MAIL [47 C.F.R. Part I, Subpart A, §1.47]

I am a citizen of the United States and a resident of El Dorado County, California. I am the Applicant-licensee herein. I am over the age of 18 years. My address is: 1110 Pleasant Valley Road, Diamond Springs, California 95619-9221.

On September 21, 2010 I served the foregoing Response to Order to Show Cause on all interested parties herein by placing true copies thereof, each enclosed in a sealed envelope with postage thereon fully prepaid (Commission Secretary's copies sent by Overnight Mail), in the United States mail at Diamond Springs, California, addressed as follows:

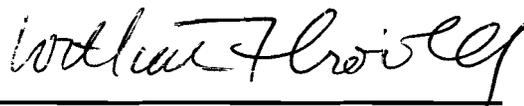
Marlene S. Dortch, Secretary, Federal Communications Commission
445 - 12th Street S.W., Washington, D.C. 20554
(original and 6 copies)

P. Michele Ellison, Chief, Enforcement Bureau, Federal Communications Commission
445 - 12th Street, S.W., Washington, D.C. 20554

Federal Communications Commission, Enforcement Bureau
Investigations and Hearings Division; ATTN: Judy Lancaster
445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554
(Bureau Counsel)

I further declare that, on this same date, and pursuant to footnote 1 of the February 14, 2008 Order of Chief Administrative Law Judge Sippel, as well as the parties' agreed practice, I emailed electronic copies of the foregoing document to the Office of Administrative Law Judges and to Bureau Counsel.

I declare under penalty of perjury that the foregoing is true and correct, and that this proof of service was executed on September 21, 2010 at Diamond Springs, California.



William F. Crowell