

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-1233

September Term, 2003

Filed On: March 4, 2004 [807250]

Joseph Haley, *d/b/a* Offshore Air,
Petitioner

v.

Federal Aviation Administration,
Respondent

ON PETITION FOR REVIEW OF AN ORDER OF THE FEDERAL AVIATION ADMINISTRATION

BEFORE: Sentelle, Rogers, and Garland, Circuit Judges

J U D G M E N T

This petition for review of an order of the Federal Aviation Administration was considered on the briefs and appendix filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the petition for review be dismissed. The petition for review was not filed within 60 days after issuance of the May 16, 2001 order, nor does alleged agency error in the underlying proceeding constitute “reasonable grounds” for not filing by the 60th day. See 49 U.S.C. § 46110(a). Furthermore, petitioner’s series of reconsideration petitions did not toll the running of the judicial review period for the May 16, 2001 order. Whatever the effect of the first petition for reconsideration (which was dismissed as untimely), the second petition (which was dismissed as unauthorized under agency rules) did not toll the running of the review period. Cf. National Bank of Davis v. Office of Comptroller of Currency, 725 F.2d 1390, 1392 (D.C. Cir. 1984) (per curiam) (holding that “a motion for administrative reconsideration, which Congress did not order the agency to entertain, which the agency dismissed in relevant part on procedural grounds, and which the petitioner filed over sixty days after the agency acted, [cannot] effectively extend[], retroactively, the thirty-day period Congress specified for judicial review petitions”).

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Finally, to the extent that petitioner seeks review of the subsequent orders dismissing his reconsideration petitions, he offers only a conclusory assertion that his first petition was in fact timely, he offers no argument at all concerning the dismissal of his second petition as unauthorized under the agency's rules, and an agency's rejection of such a second petition is not in any event reviewable. See Sendra Corp. v. Magaw, 111 F.3d 162, 167 (D.C. Cir. 1997). His petition for review must, therefore, be dismissed.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam