

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 07-1327

September Term 2007

TRAN-49USC30162

Filed On: April 22, 2008

William B. Trescott,

Petitioner

v.

Federal Highway Administration and Secretary  
of Transportation,

Respondents

## PETITION FOR REVIEW FROM AN ORDER OF THE FEDERAL HIGHWAY ADMINISTRATION

**BEFORE:** Henderson, Rogers, and Kavanaugh, Circuit Judges

### J U D G M E N T

This petition for review of an order of the Federal Highway Administration was considered on the agency record and the briefs 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 be transferred to the District Court for the District of Columbia. The petitioner seeks review of regulations issued pursuant to the agency's authority under 23 U.S.C. §§ 127, 315 and 49 U.S.C. §§ 31111, 31112, and 31114. This court lacks subject-matter jurisdiction because none of these statutes falls within those listed in the Hobbs Act, 28 U.S.C. § 2342(3)(A), and the authority exercised by the Federal Highway Administration was not transferred from the Interstate Commerce Commission to the Department of Transportation. See Aulenback, Inc. v. FHWA, 103 F.3d 156 (D.C. Cir. 1997) (holding that the Hobbs Act only grants the courts of appeals exclusive jurisdiction to review actions of Department of Transportation agencies if the action is taken pursuant to authority that was transferred from the Interstate Commerce Commission); Owner-Operator Independent Drivers Ass'n v. Pena, 996 F.2d 338 (D.C. Cir. 1993) (same). Therefore, the petitioner must seek review in district court pursuant to the Administrative Procedure Act, 5 U.S.C. § 704, under federal question jurisdiction, 28 U.S.C. § 1331.

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The Clerk is directed to transmit the original file and a certified copy of this order to the United States District Court for the District of Columbia.

Pursuant to D.C. Cir. Rule 36, this disposition will not be published.

**Per Curiam**