

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

William P. Irwin                      NAL/Acct. No. 315VB0027  
DeBary, FL

### ORDER

Adopted: January 19, 1996;      Released: January 26, 1996

By the Chief, Compliance and Information Bureau:<sup>1</sup>

#### I. INTRODUCTION

1. In this Order we address the Petition for Reconsideration filed by Mr. William P. Irwin (Petitioner), pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106. The petitioner requests review of a monetary forfeiture of \$500 issued by the Vero Beach Field Office, Compliance and Information Bureau, under authority of Section 503(b) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 503(b), for willful and repeated interference in the amateur radio service in violation Section 97.101(d) of the Commission's rules, 47 C.F.R. § 97.101(d). The order also charged the petitioner with failure to identify with the assigned station call sign in violation of Section 97.119(a), 47 C.F.R. § 97.119(a). For the reasons noted below, we deny the Petition for Reconsideration.

#### II. BACKGROUND

2. In December 1992, the Vero Beach Field Office became aware of interfering transmissions on the amateur radio service frequency of 14.315 KHz. These interfering transmissions continued on a regular basis until July 23, 1993, when FCC Agents found that the interfering transmissions originated from the petitioner's home. During the subsequent inspection conducted by the FCC Agents, the petitioner admitted that he used his amateur radio station to cause interference with other amateur operators. The petitioner also referred to the interfering transmission station as "Raincoat Charlie."

3. The Vero Beach Field Office issued the petitioner a Notice of Apparent Liability (NAL) for \$2,000 on July 28, 1993. The petitioner responded to the NAL on August 11, 1993, and again admitted to the transmissions, but asked for abeyance of the fine and claimed inability to pay. The Vero Beach Field Office denied the request for abeyance of the fine, but found the petitioner's inability to pay claim persuasive. Accordingly, the Field Office issued a Forfeiture Order for \$500 on August 17, 1993.

#### III. DISCUSSION

4. On review, the petitioner again admits that he willfully and repeatedly caused interference in the amateur radio service and failed to identify with the assigned station call sign. Therefore, there are no substantive issues to be resolved.<sup>2</sup> Instead, this Order addresses the petitioner's renewed claim of inability to pay. Based on the financial data provided by the petitioner, the Vero Beach Field Office reduced the forfeiture to \$500. The petitioner has provided no new financial information that would warrant a further reduction of the fine. In the alternative, the petitioner asks to pay the fine through installments. This option is indeed available to the petitioner and the relevant information is provided in footnote 3 of this Order.

5. With respect to the \$500 forfeiture, we note that the Vero Beach Field Office followed the forfeiture guidelines established in the Commission's *Policy Statements, Standards for Assessing Forfeitures, (Policy Statement)*, 8 FCC Rcd 6215 (1993). On July 12, 1994, the Court of Appeals for the D.C. Circuit vacated the forfeiture guidelines. *United States Telephone Assn. v. FCC*, 28 F.3d 1232 (D.C. Cir. 1994). On reconsideration, we have reassessed the forfeiture amount pursuant to the statutory guidelines set forth in Section 503 of the Act, 47 U.S.C. § 503(b)(2)(D). In particular, Section 503(b) of the Act requires that the Commission "take into account the nature, circumstances, extent and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require." 47 U.S.C. § 503(b)(2)(D). Because the petitioner admitted to willfully and repeatedly causing interference to communications in the amateur radio service, we conclude that issuance of a forfeiture is warranted. Based on the petitioner's demonstrated inability to pay, we have determined that a \$500 forfeiture is reasonable.

6. Finally, the petitioner states that he wishes to inspect Commission records pertaining to the investigation of the events leading to this forfeiture action. These materials are not routinely available for public inspection. Should the petitioner wish to pursue the information request further, he must file a request for access to records under the Freedom of Information Act, pursuant to Section 0.461 of the Commission's rules. 47 C.F.R. § 0.461.

#### IV. ORDERING CLAUSES

7. IT IS ORDERED THAT, pursuant to Section 503(b) of the Act, 47 U.S.C. § 503(b), and Section 1.106 of the Rules, 47 C.F.R. § 1.106, that the Petition for Reconsideration is DENIED.

8. IT IS FURTHER ORDERED that, Mr. William P. Irwin must pay the forfeiture amount of Five Hundred Dollars (\$500) within thirty (30) days of the release date of this Order, or file an Application for Review of this Order pursuant to 47 C.F.R. § 1.115. Payment may be made by

<sup>1</sup> The Compliance and Information Bureau (CIB) was formerly named the Field Operations Bureau. The name change became effective on November 27, 1994.

<sup>2</sup> In his petition, the petitioner comments on the self-policing

practices in the amateur radio service, and thus tries to explain his behavior. The petitioner's comments, however, do not present a basis to change the Field Office's determination that the petitioner committed the violation.

check or money order payable to the Federal Communications Commission.<sup>3</sup> Please place NAL/Acct. No. 315VB0027 on the remittance and mail it to:

Federal Communications Commission  
Post Office Box 73482  
Chicago, Illinois 60673-7482

Forfeiture penalties not paid within 30 days may be referred to the U.S. Attorney for recovery in a civil suit. 47 U.S.C. § 504(a).

9. IT IS FURTHER ORDERED that a copy of this Order shall be sent to Mr. William P. Irwin.

FEDERAL COMMUNICATIONS COMMISSION

Beverly G. Baker  
Chief, Compliance and Information Bureau

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<sup>3</sup> Requests for installment plans should be mailed to: Chief, Billings and Collections, Mail Stop 1110A2, 1919 M Street, N.W., Washington, D.C., 20554. Payment of the forfeiture in install-

ments may be considered as a separate matter in accordance with Section 1.1914 of the Commission's Rules.