

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

In the Matter of)
LONNIE L. KEENEY) EB Docket No. 07-264
Amateur Radio Operator and Licensee of) File No. EB-06-IH-2945
Amateur Radio Station KB9RFO)

ORDER ON RECONSIDERATION

Adopted: May 21, 2010

Released: May 24, 2010

By the Chief, Enforcement Bureau

I. INTRODUCTION

1. In this Order on Reconsideration, we address a Petition for Reconsideration filed by Lonnie Keeney on March 17, 2009, in which he seeks reconsideration of the Order of Revocation ("Revocation Order") issued on February 25, 2009, by the Chief, Enforcement Bureau ("Bureau"). The Revocation Order determined that Mr. Keeney lacks the requisite character qualifications to be and remain a Commission licensee on the basis of his felony conviction for child molestation. For the reasons below, we hereby deny Mr. Keeney's Petition for Reconsideration and affirm the revocation of his amateur radio authorization.

II. BACKGROUND

2. On November 20, 2007, the Chief, Enforcement Bureau, pursuant to delegated authority, released Lonnie L. Keeney, Order to Show Cause, 22 FCC Rcd 19975 (Enf. Bur. 2007) ("OSC" or "Order to Show Cause"), designating this case for hearing before an Administrative Law Judge ("ALJ"). Issues were specified to determine whether Mr. Keeney is qualified to be and remain a Commission licensee in light of his felony conviction for child molestation, and, if not, whether his license for Amateur Radio License KB9RFO should be revoked.

3. The Order to Show Cause directed Mr. Keeney, in person or by his attorney, to file with the Commission within 30 days of release thereof, a written appearance stating his intention to appear on the date fixed for hearing and present evidence on the specified issues. The Order to Show Cause informed Mr. Keeney that if he failed to file a timely written appearance, his right to a hearing would be

1 See letter entitled, "Asking For A Review Or To Consider This As A Petition For Reconsideration" from Lonnie Keeney to the Federal Communications Commission, dated March 9, 2009 ("Petition For Reconsideration").

2 See Lonnie Keeney, Order of Revocation, 24 FCC Rcd 2426 (Enf. Bur. 2009)("Revocation Order").

3 See OSC, 22 FCC Rcd at 19977.

4 See id.

waived pursuant to Section 1.92(c) of the Commission's rules, and the Presiding Administrative Law Judge would thereafter issue an order terminating the hearing and certifying the case to the Commission for resolution.⁵

4. The ALJ issued *Lonnie L. Keeney*, Memorandum Opinion and Order, FCC 08M-13 (ALJ, rel. January 25, 2008) ("MO&O"), holding that Mr. Keeney had failed to file a written appearance and that his representations in an e-mail to the presiding Judge clearly established an intent not to appear on the date fixed for hearing and not to present evidence on the issues specified in the Order to Show Cause.⁶ The ALJ concluded that Mr. Keeney had waived his right to a hearing and, accordingly, terminated the proceeding and certified the case to the Commission.⁷ The ALJ specifically considered and detailed in the MO&O the content of Mr. Keeney's written communications to the Commission since the issuance of the Order to Show Cause, including his arguments that he could not afford to attend a hearing and that his character had been rehabilitated by his jail time and his efforts to rebuild his reputation.⁸ Thereafter, the Bureau released the Revocation Order, finding Mr. Keeney to be unqualified on the basis of his felony conviction and revoking his amateur radio license.⁹ The order cited and referred to the MO&O's discussion of Mr. Keeney's earlier arguments.¹⁰

5. In his Petition for Reconsideration, Mr. Keeney requests that he be permitted to keep his amateur radio license.¹¹ In support, Mr. Keeney states that he has no money to defend himself at a hearing, that his license is important to him, that he previously used his amateur station to provide services to his community, that he participates as a volunteer in a jail ministry, and that he is trying to rebuild his reputation in the face of a lifelong requirement to register as a sex offender.¹²

III. DISCUSSION

6. Sections 1.106(b) and (c) of the Commission's rules, 47 C.F.R. §§ 1.106(b) and (c), provide that a petition for reconsideration will be entertained only if it relies on newly discovered facts or if consideration of the facts relied on is in the public interest.¹³ The Bureau has carefully reviewed Mr. Keeney's Petition for Reconsideration and concludes that it does not satisfy the requirements of Sections 1.106(b) and (c). Specifically, Mr. Keeney has provided no newly discovered facts or information that

⁵ See *id.* See also 47 C.F.R. § 1.92(c).

⁶ See MO&O, FCC 08M-13 at 2.

⁷ See *id.*

⁸ *Id.* at 1.

⁹ See Revocation Order.

¹⁰ Revocation Order, 22 FCC Rcd at 2417.

¹¹ Petition for Reconsideration at 1.

¹² See *id.* at 1-2, attach. (Letter from Michael Hecko to "To Whom It May Concern," dated January 8, 2008).

¹³ 47 C.F.R. §§ 1.106 (b) and (c). See also *Carolyn S. Hagedorn*, Memorandum Opinion and Order, 11 FCC Rcd 1695, 1696 (1996) (Under Section 1.106(c) "the additional information offered must relate to changed circumstances or previously unknown facts, or additional public interest reasons must compel consideration . . . the strict limitation on reconsideration based on new evidence is intended to promote orderly adjudicative processes and administrative finality."); *Earth Incorporated*, Order on Reconsideration, 24 FCC Rcd 3571, 3573-74 (WTB, Mobility Division, Mar. 2009)(Section 1.106(c) "permits a petition for reconsideration that relies on facts not previously presented only when the facts relate to events which have occurred or circumstances have changed since the last opportunity to present such matters and could not, through the exercise of ordinary diligence, have been learned prior to such opportunity . . . or the public interest requires consideration of the facts.").

would, in the public interest, warrant reconsideration of the Order of Revocation. Indeed, the information Mr. Keeney presents in his Petition for Reconsideration is of the kind that was already presented to the ALJ and described in the MO&O and Revocation Order.¹⁴ Furthermore, even assuming, *arguendo*, that Mr. Keeney did present a basis for reversing the Order of Revocation, the relief to which he would be entitled would be a new hearing proceeding on his qualifications, not, as he seeks, authority to keep his amateur radio license.

7. Based on the foregoing, we conclude that Mr. Keeney has failed to establish a basis for reconsideration of the Order of Revocation. Furthermore, the relief he seeks under the circumstances presented is inconsistent with our procedural rules.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by Lonnie Keeney on March 17, 2009, is DENIED.

9. This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATION COMMISSION

P. Michele Ellison
Chief
Enforcement Bureau

¹⁴ See MO&O, FCC 08M-13 at 1; Revocation Order, 24 FCC Rcd at 2427, 2429.