



Federal Communications Commission
Washington, D.C. 20554

July 29, 2011

DA 11-1315

Bernard J. Parker
702 Carlisle Ct.
Lake Dallas, TX 75065

Re: Petition for Rule Making filed May 25, 2011

Dear Mr. Parker:

This is in response to the petition that you filed on May 25, 2011, requesting that the Commission amend Part 97 of its Rules¹ to prohibit convicted felons from obtaining an amateur radio operator license.² For the reasons set forth below, we dismiss the petition.

The Commission has consistently applied character standards developed for broadcasters to applicants and licensees in the amateur radio service.³ The Commission's character policies provide that a felony conviction is relevant to the evaluation of a licensee's character qualifications, because felonies are serious crimes that reflect on the licensee's propensity to obey the law.⁴ Before it will revoke a license or deny an application based on the felony conviction, however, the Commission takes into consideration factors that may mitigate a licensee's felonious misconduct. For example, the Commission reviews the willfulness of the misconduct, the frequency of the misconduct, how recently the misconduct occurred, the seriousness of the misconduct, efforts made to remedy the wrong, overall record of compliance with FCC rules and policies, and rehabilitation. Thus, a felony conviction may disqualify a person from holding an amateur radio license, but does not necessarily disqualify the person. The question of disqualification is addressed on a case-by-case basis.⁵

We conclude that you have not presented grounds for the Commission to revisit this policy. Your argument that the policy is contrary to the basis and purpose of the amateur service fails to recognize that the Commission has an established process for assessing whether a felony

¹ 47 C.F.R. Part 97.

² Petition for Rule Making filed by Bernard J. Parker (filed May 25, 2011) (Petition). Specifically, you propose that Section 97.5 of the Commission's Rules, 47 C.F.R. § 97.5, be amended to state, "To be eligible for a station license the person must not be a convicted felon, or be the subject of pending felony charges." You also request changes to the certifications on the FCC Form 605 so that the applicant is required to certify that he or she "has not been convicted of any felonies" and is not "subject to pending felony charges." See Petition at 10 (Appendix A).

³ See, e.g., Roger Thomas Scaggs, *Order of Revocation*, 19 FCC Rcd 7123, 7125 ¶ 2 (EB 2004), and cases cited therein.

⁴ See Policy Regarding Character Qualifications in Broadcast Licensing, *Report, Order and Policy Statement*, Gen. Docket No. 81-500, 102 F.C.C. 2d 1179 (1986); Policy Regarding Character Qualifications in Broadcast Licensing, *Policy Statement and Order*, 5 FCC Rcd 3252 (1990).

⁵ See, e.g., Kevin David Mitnick, *Hearing Designation Order*, 16 FCC Rcd 22740, 22742 ¶ 7 (2001).

conviction is grounds for denying participation in the amateur radio service, as discussed above.⁶ You offer no persuasive argument for barring anyone convicted of any felony from ever obtaining an amateur radio operator license. You present no evidence that the current policy is undermining the purpose of the amateur radio service, or is otherwise contrary to the public interest. Indeed, your petition relies entirely on the case of a single amateur licensee. Nor do you discuss why a higher standard should apply to the amateur service than to other communications services. We conclude, therefore, that the petition presents no evidence of an existing problem that has not been considered before, or other evidence meriting a rule change.

Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.401(e) of the Commission's Rules, 47 C.F.R. § 1.401(e), that the petition for rulemaking filed May 25, 2011, by Bernard J. Parker IS DISMISSED.

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 and 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

⁶ See Petition at 4.