

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

In the Matter of)
)
Eddie Bond)
)
For a Forfeiture)

**MEMORANDUM OPINION AND ORDER
AND FORFEITURE ORDER**

Adopted: November 26, 1997

Released: December 1, 1997

By the Chief, Mass Media Bureau:

1. On November 6, 1995, the Chief, Mass Media Bureau ("Bureau") issued a Notice of Apparent Liability ("NAL") to Eddie Bond ("Bond") pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Communications Act"), under authority delegated to the Chief of the Mass Media Bureau by Section 0.283 of the Commission's Rules.¹ In the NAL, the Bureau found that Bond had engaged in three unauthorized transfers of control of the license for Station WOHT(FM) (formerly and hereafter referred to as Station WKZB(FM))², Drew Mississippi, in violation of Section 310 of the Communications Act and Section 73.3540 of the Commission's Rules. As a result of these violations, Bond was assessed a forfeiture of \$15,000. Bond responded to the notice with two letters claiming that the forfeiture should either be reduced or rescinded because he was unable to pay. He did not dispute the determination that he had engaged in the three unauthorized transfers of control. As discussed below, we deny Bond's request for rescission or reduction and impose a forfeiture for \$15,000.

2. The facts and circumstances concerning the unauthorized transfers of control were set forth in detail in the NAL³ and will not be repeated here. In response to the NAL, Bond wrote the Bureau stating that he was unable to pay the forfeiture. Bond claimed that the station has had financial problems from the start due to the adverse economic condition of Drew, Mississippi but that he tried unsuccessfully to keep the station on the air. In addition, Bond maintained that he was in very poor health and has limited financial resources. He offered to pay the Commission \$1500.00, to be paid out in installments of \$500 each for three months.

¹ Eddie Bond, 10 FCC Rcd 12535 (MMB 1995).

² Effective March 6, 1995, the call letters for Station WKZB(FM) were changed to WOHT(FM). However, for ease of reference, we will henceforth refer to the station by its previous call letters.

³ NAL at 12535-7.

3. By letter dated May 15, 1997, the Bureau informed Bond that his showing in support of his claim of inability to pay was insufficient and described the type of detailed financial information that is necessary to support such a claim. Specifically, the letter stated that Bond must furnish documentation that contains (but is not limited to) a profit and loss statement or income tax returns containing data no older than one year from the date of the response and prepared under generally accepted accounting principles. Bond responded by letter to the Bureau on July 12, 1997. He states that his financial situation as well as his health have worsened since 1995 and he is no longer able to pay any portion of the forfeiture.

4. Despite the clear instructions contained in the Bureau's letter of May 15, 1997, Bond did not provide any of the detailed financial information required to support a claim of inability to pay. Accordingly, we are not persuaded that the fine should be rescinded or reduced due to Bond's financial condition. A claim of financial hardship can be a mitigating factor to be weighed against the imposition of a forfeiture. See Section 504(b) of the Communications Act. However, the information submitted by Bond in response to the NAL is completely inadequate to support a claim of inability to pay. Bond offers nothing in the way of documented financial information. Rather, Bond has submitted to the Bureau two letters which contain generalized statements concerning his financial situation. The letters do not contain any of the accepted types of documents, such as a profit and loss statement or income tax returns, necessary to support a claim of inability to pay.⁴ As we are unable to accurately assess Bond's current financial condition, there is no basis for determining Bond's inability to pay and his request is denied.⁵

5. In both of Bond's letters, he states that he is no longer a licensee and that fact should be taken into account in any decision regarding the forfeiture. We disagree. As we stated in the NAL, the amount of the forfeiture was determined after consideration of the factors set forth in Section 503(b)(2) of the Communications Act, taking into account the nature, circumstances, extent, and gravity of the violation. Bond does not dispute that he engaged in three unauthorized transfers of control of WKZB, which lasted for nine months, five months, and eleven months, respectively. Moreover, the assignment of WKZB from Bond to Delta Radio, Inc. ("Delta") was granted without prejudice to possible enforcement action by the Commission against any and/or all parties involved in the operation of WKZB from October, 1991, the time of the first unauthorized transfer of control, until June 29, 1994, the date of the assignment of the license to Delta.⁶

⁴ See Pinnacle Communications Inc. 11 FCC Rcd 15496 (1996); LeSea Broadcasting Corporation, DA 97-617 (MMB, released Mar. 27, 1997); PJB Communications of Virginia, Inc., 7 FCC Rcd 2088 (1992); San Luis Obispo Limited Partnership, 11 FCC Rcd 9616 (1996). These cases were cited by the Bureau in its May 15, 1997 letter to Bond.

⁵ Liability of Black & Gold Radio Company, Inc., 10 FCC Rcd 8719 (1995).

⁶ The Bureau also issued a notice of apparent liability against Delta. See Delta Radio Inc., 10 FCC Rcd 12538 (MMB 1995).

6. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. Section 503(b), that Eddie Bond **FORFEIT** to the United States the sum of fifteen thousand dollars (\$15,000) for willful and repeated violations of Section 73.3540 of the Commission's Rules, 47 C.F.R. Section 73.3540. Payment of the forfeiture may be made by mailing to the Commission a check or similar instrument payable to the Federal Communications Commission.

7. IT IS FURTHER ORDERED, that the Mass Media Bureau send by Certified Mail -- Return Receipt Requested, copies of this Memorandum Opinion and Order and Forfeiture Order to Eddie Bond.

FEDERAL COMMUNICATIONS COMMISSION

Roy Stewart
Chief, Mass Media Bureau