

Served: October 13, 2020

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF ADMINISTRATIVE LAW JUDGES

Petition of

BENJAMIN J. TURNER

for review of the denial by the
Administrator of the Federal Aviation
Administration of the issuance of
a repairman certificate.

Docket CD-30003

Petition of

DEREK P. MESSNER-HENNING

for review of the denial by the
Administrator of the Federal Aviation
Administration of the issuance of
a repairman certificate.

Docket CD-30004

**ORDER DENYING MOTION BY AERONAUTICAL REPAIR STATION
ASSOCIATION FOR LEAVE TO INTERVENE IN PROCEEDINGS**

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Benjamin J. Turner and Derek P. Messner-Henning, who are employees of a repair station certificated under Part 145 of the Federal Aviation Regulations (“FAR,” codified at 14 C.F.R.), were denied the issuance of repairman certificates by a Flight Standards District Office of the Federal Aviation Administration (“FAA”). On July 21, 2020, they each, acting *pro se*, filed petitions for National Transportation Safety Board review of those denials.

On August 27, 2020, the Aeronautical Repair Station Association (“ARSA”) filed a motion for leave to intervene in these proceedings. In support of that motion, ARSA related that it represents the interests of Part 145 certificate holders, and asserted that: the interests of such entities “are intrinsically linked to the requirements for, and the recommendation for and use of repairman certificates;” ASRA’s interests “are not adequately represented by the *pro se* individuals” who are seeking review of the FAA’s repairman certificate denials herein because “they are not experts in or even familiar with the legal proceedings into which they have entered;” and ARSA’s intervention “will not unduly broaden, delay or impede” these proceedings.

The Administrator filed a reply in opposition to ARSA’s motion on September 11, 2020. That reply avers, “If ARSA is permitted to unconditionally intervene in these proceedings as a litigant, it is likely they will overshadow Petitioners’ cases in their own litigation strategy, discovery and motions, thereby expanding or impeding the proceedings.”

Rule 9(a) of the Board’s Rules of Practice (49 C.F.R. § 821.9(a)) provides that a person or entity “may move for leave to intervene in a proceeding, and may become a party thereto,” if that person or entity “has a property, financial or other legitimate interest that will not be adequately represented by the existing parties, and ... such intervention will not unduly broaden the issues or delay the proceeding.”

ARSA has not claimed that it has a property or financial interest in the outcome of these proceedings, and it does not appear to have any “other legitimate interest” in them. The sole issue presented in these cases is whether petitioners Turner and Messner-Henning are qualified as individuals to hold repairman certificates. It is difficult to conceive how the resolution of that issue substantially affects the welfare of an organization whose purposes, according to its Articles of Incorporation, are:

- A. To provide an opportunity for the exchange of information and experience about the operations of certificated repair stations;
- B. To maintain and promote high standards of professionalism among the members of the certificated repair station community;
- C. To disseminate information among certificated repair stations which will assist them in conducting their affairs in a business-like manner;
- D. To alert the certificated repair station community to any regulatory or legislative activities which may affect the conduct of their business;
- E. To provide technical support and information;

- F. To develop positions and objections with regard to legislative and regulatory matters, and to initiate action which will achieve those objectives, consistent with other policies of the Corporation and with the laws governing the conduct of such activities;
- G. To provide an opportunity for communication and exchange of information between the members of the certificated repair station community and other businesses and individuals associated with the industry.

It further seems likely that if ARSA were to become a party to these proceedings, the issues will be unduly broadened beyond an inquiry into each petitioner's qualifications to hold a repairman certificate.

As to ARSA's concern that petitioners' *pro se* status will somehow adversely affect *its* interests because those individuals "are not experts in or even familiar with the legal proceedings into which they have entered," petitioners are, if they believe they need legal assistance, free to retain counsel — and their employer repair station or ARSA may, if they believe it would be mutually beneficial, choose to assist petitioners in securing or providing such representation.

THEREFORE, IT IS ORDERED that Aeronautical Repair Station Association's motion for leave to intervene as a party in these proceedings is DENIED.

Entered this 13th day of October, 2020, at Washington, D.C.

_____/s/_____
Stephen R. Woody
Administrative Law Judge