

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

In the Matter of
Revocation of License of

PR-754-81

DAVID HILDEBRAND
3463 N. Knoll Drive
Hollywood, California 90068

Licensee of Station N6BHU in
the Amateur Radio Service

Suspension of License of

DAVID HILDEBRAND
3463 N. Knoll Drive
Hollywood, California 90068

Amateur Technician Class
Operator Licensee

ORDER TO SHOW CAUSE
AND SUSPENSION ORDER

Adopted: March 20, 1981;

Issued: March 20, 1981

The Chief, Private Radio Bureau, has under consideration the license for Amateur radio station N6BHU of David Hildebrand, as well as Hildebrand's Technician Class radio operator license.

1. On January 24, 1981, Hildebrand apparently used radio transmitting equipment to transmit communications containing obscene, indecent or profane language, in wilful violation of Section 97.119 of the Commission's Rules and to transmit music in wilful violation of Section 97.115 of the Rules.

2. Section 312(a)(4) of the Communications Act of 1934, as amended, provides that radio station licenses may be revoked for wilful or repeated violation of the Communications Act or Commission Rules. Section 303(M)(1)(A) of the Act provides that an operator's license may be suspended for violation of Commission Rules. In addition, an operator's license may be suspended for transmission of obscene, indecent or profane language under Section 303(M)(1)(D) of the Act. ACCORDINGLY, IT IS ORDERED, That Hildebrand SHOW CAUSE why the license for station N6BHU SHOULD NOT BE REVOKED. IT IS FURTHER ORDERED, under authority contained in Section 1.85 and 0.331 of the Commission's Rules, that the Technician Class Operator license of Hildebrand IS SUSPENDED for the remainder of the license term. The suspension will be held in abeyance if Hildebrand requests a hearing or submits a written statement for consideration. 1/

1/ Any contrary provisions of Section 1.85 of the Rules are waived.

3. IT IS FURTHER ORDERED, That if Hildebrand wants a hearing on the revocation and/or suspension matters, he must file a written request for a hearing within 30 days. 1/

4. IT IS FURTHER ORDERED, That if Hildebrand waives his right to a hearing on the suspension matter and does not submit a statement, the suspension will take effect 30 days after Hildebrand receives this order; 1/ 2/ and that if Hildebrand waives his right to a hearing and submits a written statement, the suspension matter will be certified to the Commission for administrative disposition. 1/ If Hildebrand waives his right to a hearing on the revocation matter, it will be certified to the Commission for administrative disposition pursuant to Section 1.92(c) of the Rules.

5. IT IS FURTHER ORDERED, That the matters in this proceeding will be resolved upon the following issues:

- (a) To determine whether there were transmissions on January 24, 1981, in wilful violation of Section 97.115 and/or 97.119 of the Commission's Rules. 3/
- (b) To determine whether Hildebrand has the requisite qualifications to be a Commission licensee in the Amateur radio service.
- (c) To determine whether, in light of the evidence adduced under Issues (a) and (b), Hildebrand's license for Amateur station N6BHU should be revoked.
- (d) To determine whether the suspension order should be affirmed, modified or dismissed.

6. IT IS FURTHER ORDERED, That pursuant to Section 1.227 of the Rules, the revocation proceedings on the Amateur station license and the suspension proceeding on the Amateur Operator's license ARE CONSOLIDATED.

7. IT IS FURTHER ORDERED, That a copy of this Order shall be sent by Certified Mail--Return Receipt Requested and by Regular Mail to the licensee at his address of record shown in the caption.

Chief, Private Radio Bureau

By: *W. Riley Hollingsworth, Jr.*
W. Riley Hollingsworth
Acting Chief, Compliance Division

*(202) 632-7000 Compliance
632-7595 Compliance (RCS)
632-7197 W.R.H.P*

1/ Any contrary provisions of Section 1.85 of the Rules are waived.

2/ The attached form should be used to request or waive a hearing. It should be mailed to the Federal Communications Commission, Washington, D.C. 20554.

3/ A Notice of Violation and transcript of the monitored communications have been sent to Hildebrand from the Commission's Long Beach, California office.

--YOUR REPLY MUST BE RECEIVED WITHIN 30 DAYS FROM THE DATE OF THIS ORDER--

PR- 754-61

TO: Secretary
Federal Communications Commission
Washington, D.C. 20554
Compliance Division - Room 8202

FROM: DAVID HILDEBRAND
3453 N KNOLL DRIVE
HOLLYWOOD CA 99068
Radio Station KGBHU

REPLY TO ORDER TO SHOW CAUSE WHY AMATEUR RADIO
STATION LICENSE KGBHU SHOULD NOT BE REVOKED

In this matter, I take the action indicated below:

- ☐ 1. I will appear and present evidence at the hearing.
- ☐ 2. I waive my right to a hearing and do not submit a written statement.
- ☐ 3. I waive my right to a hearing and submit the attached written statement.

REPLY TO ORDER SUSPENDING AMATEUR
TECHNICIAN CLASS OPERATOR LICENSE

In this matter, I take the action indicated below:

- ☐ 1. I will appear at a hearing on the suspension order.
- ☐ 2. I do not desire a hearing on the suspension order, and
enclose my Amateur Radio Operator license to be held by
the Commission for the duration of the suspension.

Signature

Date

Telephone Number (Optional)

426-4451

Long Beach, Calif. 90807

1. Name and Address of Licensee

David L. Hildebrand
3463 N. Knoll Drive
Hollywood, GA 90068

(See Instructions and Privacy Act Notice on reverse side.)

WARNING: Violations, if repeated or willful, as well as your failure to reply to this notice, may result either in the imposition of monetary forfeitures, the revocation of your station license or suspension of operator license. (See Sections 503, 312, and 303 (m) of the Communications Act of 1934, as amended and Section 1.89 of the Commission's Rules.)

2. FREQUENCY				
144.0 MHz to 148.0 MHz	2b. Measured 146.010 MHz	2c. High/Low (Hertz) ----	3. Emission F3	
4. Location of Station Hollywood, CA	5. Radio Service or Class of Station HA	6. Hour(s) of Violation (EST-GMT) See attached intercept	7. Date(s) of Violation 1-24-81	8. Call Sign N6BHU

9. VIOLATION(S) NON-COMPLIANCE WITH FCC RULES AND REGULATIONS

97.115 - Amateur station transmitted music. (Singing)

97.119 - Amateur operator transmitted communications containing obscene, indecent, and profane words, language and meaning.

D.O.I. ~~I-24-81~~

ISSUING OFFICER  A. Bennett (V)	SUPERVISOR - LOCATION L. D. Guy  LB	DATE MAILED RETURN 3-20-81
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The knowing and willful making of any false statement in reply to this NOTICE is punishable by fine or imprisonment under Title 18, United States Code, Section 1001.

(All previous editions of this form are canceled.)

(See Reverse Side)

FCC Form 723
April 1978

TO THE LICENSEE:

The facts set forth herein indicate that you have violated the requirements of law or treaty. This Notice is issued in accordance with Section 1.89 of the Commission's Rules.

1. Within 10 days from receipt of this Notice, a written reply in DUPLICATE shall be addressed to "Federal Communications Commission" and SENT TO THE ADDRESS SHOWN ON THE FACE HEREOF AT THE TOP OF THE PAGE. DO NOT address your reply to an individual.
2. **MAKE CERTAIN THAT YOUR ANSWER:**
 - a. Fully explains each violation.
 - b. Specifically describes the action taken to correct and to prevent continuation or recurrence of each violation.
 - c. Is identified as a reply to this Notice. Include the *call sign* of your station so that your answer may be properly associated with the station file.
 - d. Does not refer to a reply to another notice, but is complete in itself.
 - e. Is dated and is signed by the licensee or, if appropriate, an officer of the licensee.
 - f. Includes all the information requested above in addition to any other information requested in Items 3 and 4, below.
3. **CHANGE OF ADDRESS:**

If the address appearing in Block 1 on the face of this Notice is not your correct address for receipt of mail, include the correct address in your letter of reply to this Notice.
4. If an "X" appears in the box preceding any of the following instructions, comply with the instruction(s) so indicated and submit the information together with the above described letter.

- ☐ a. State the name of the person who operated the transmitter at the time of the violation. Does this person hold an operator license or permit issued by the Federal Communications Commission?
- ☐ b. A second copy of this notice is enclosed for the operator to answer the following questions thereon. That copy must then be submitted with the letter of reply described in Item 2 above from the person addressed on the face of this notice. **RETAIN THE ORIGINAL OF THIS NOTICE.**

I, the undersigned, was the operator on duty at the time of the violation noted hereon, and hereby acknowledge this NOTICE. I hold FCC-issued Radio Operator (Not Station) License or Permit as follows (if none, so state): _____
Number (If unnumbered, so state): _____
Issuance date: _____ Birth date: _____
Name (print): _____
Address: _____
Signature: _____

**NOTICE REQUIRED BY THE PRIVACY ACT OF 1974, P.L.
93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3):**

The staff will use all relevant and material information before it, including the information disclosed in your reply, to determine what, if any, enforcement action is required to ensure current and future Rule compliance.

Willful or repeated violation or failure to reply may result in a monetary forfeiture or license revocation.

FCC Form 793
April 1978 (page 2)

INTERCEPT

PAGE NO. 1 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU _____ FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur _____ EMN F3 QSA _____ OBS _____ DATE _____
SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett

GMT: January 24, 1981

(NOTE: OS= Other Station)

(CONVERSATION IN PROGRESS)

N6BHU WHAT'S DEBAUCHERY? IS THAT LIKE LIKE BOTCHING SOMETHING UP
EXCEPT YOU'RE DE-BOTCHING IT?

7:15 PM

OS #2 NA, THAT'S WHEN YOU FUCK AN ELEVEN YEAR OLD

N6BHU OH, WOW HEY THAT'S WHERE IT'S AT NO - ACTUALLY ROMAN POLANSKI IS
REALLY INTO THAT HIS NEW MOVIE IS CALLED CLOSE ENCOUNTER OF
THE THIRD GRADE,

(Unintelligible)

OS I LOVE IT, I LOVE IT.

N6BHU YEAH ALRIGHT, WE'RE GONNA HAVE OUR PIECE OF ASS NET FOR TONIGHT,
OUR TEENAGE PIECE OF ASS NET, WHO WANTS TO CHECK IN?

OS #2 WELL LET'S SEE, I JUST PUT MY HAND IN MY BACK POCKET AND
SQUEEZED, DOES THAT QUALIFY?

N6BHU SURE THING, WANTA CHECK IN?

OS #2 AH, YES SIR WA6GAB WITH A PIECE OF ASS RIGHT HERE IN HIS NAD.

7:16 PM

N6BHU YEAH, OK, WA6GAB CHECKING IN FOR OUR TEENAGE PIECE OF ASS NET,
ANYBODY WANTS A TEENAGE PIECE OF ASS JUST CHECK IN.

(PAUSE)

N6BHU AH WHAT'S THE MATTER, YOU DON'T WANT A PIECE?

(PAUSE)

N6BHU DID YOU SAY WA9HIB CLEAR OR QUEER?

(PAUSE)

INTERCEPT

PAGE NO. 2 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU _____ FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur _____ EMN F3 QSA _____ OBS _____ DATE _____

SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett

GMT: January 24, 1981

(NOTE: OS=Other Station)

N6BHU OH, OK, WELL LOOKS LIKE JERRY'S THE ONLY NORMAL PERSON ON
THE BAND I THOUGHT EVERYBODY LIKED YOUNG CHICKS.

OS #2 OH I DON'T KNOW, YOU KNOW YOU GOTTA WATCH THESE CHICAGOIANS
CLOSELY.

N6BHU HEY, WHAT THE HELL, AS LONG AS THE CHICK'S OVER FOURTEEN
THE MOST THEY CAN DO IS GIVE YOU, GIVE YA UP TO A YEAR,
AND IF YOU GOT CLEAN RECORD, UNLIKE RICHARD, J, A, C, IF
YOU GOT A CLEAN RECORD ALL THEY'LL DO IS GIVE YOU A SLAP
ON THIS WRIST.

OS #2 WELL ACTUALLY THE ONES OVER FOURTEEN GIVE YOU CLAP.

N6BHU OH, O.K. YEAH, THEY GIVE YOU THE, THEY GIVE YOU THE OLD
CLAP WELL UH, (CLAPPING SOUND) THERE WE GO

OS #3 APPLAUSE, APPLAUSE, OH WELL, URGH, OH WELL, OH PARDON ME
NOT URGH I MEANT TO SAY ... (SOUND EFFECT)

N6BHU HEY JERRY, YOU WANT ME TO WHIP OUT MY GUITAR AND PLAY SOME
BLUE-GRASS?

OS #2 OH MAN HEY, YOU GUYS DON'T BELIEVE THE STACK OF BLUE-GRASS
RECORDS I GOT IN THIS JURNT, OH BITCHEN!!

N6BHU BLUE TAPE, BLUE GRASS, HEY, FAR OUT MAN IS THAT ANYTHING
LIKE SIN?

OS #2 HEY DAVE

N6BHU YEAH

7:17 PM

INTERCEPT

PAGE NO. 3 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU FREQ 146.010 MHz. CALL WORKLD _____ FREQ _____
SVC Amateur EMN F3 QSA _____ OBS _____ DATE _____
SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett
GMT: January 24, 1981

OS # 2 I PROGRAMMED MYSELF A SUPER LIGHT SEMESTER THIS TIME. I'M
TAKING UH ELECTRONICS TWENTY-A AND TWENTY-B AND THAT'S IT.
AND I'M GONNA BE GOING A COUPLE NIGHTS A WEEK OVER TO THE
BLUE RIDGE PICKING PARLOR, CAN YOU DIG IT?

N6BHU HOW COME YOU'RE TAKING SUCH FUNDAMENTAL CLASSES THERE JERRY? 7:18 PM
HEY YOU GOT GET THAT TRUCK RUNNING SO YOU CAN RUN AROUND
WITH US AND GO PARTY AND STUFF. SAY YOU GOTTA COME WORK,
WORK WITH US AT THE MAGIC BOX, THAT'S A DYNAMITE PLACE,
MAN, THAT PLACE IS CRAWLING FULL OF HAMS AND THEY'RE ALL
SCREW OFFS LIKE WA6VHS, HE'S ANOTHER ONE OF THE SCREW OFFS
IN OUR BUNCH. THAT GUY'S CRAZY MAN.

OS #2 NO SHIT, YOU GOT A B, H, F, WORKING THERE FOR CHRIST SAKES,
HEY I HEAR THAT GUY ON TWO TWENTY ALL THE TIME.

N6BHU NO V, H, S, UH, VERY, HOT, UH, VERY, HOT, UH, SOMETHING OR
OTHER I FORGOT WHAT HIS CALL - PHONETICS WERE, BUT ANYWAY, UH,
SHEET.

OS #2 YEAH ROGEE, YEAH I CAN DIG IT YEAH I CAN DIG IT HEY WHAT'S
YOUR MODE HERE, YOU WORKING MOBILE OR BASE OR WHAT?

N6BHU OH I'M WORKING UH, IT'S BASED ON A BASE STATION

OS #2 O, K, WE GOT YOU COVERED THERE, YEAH, I'M JUST WONDERING UH
WHAT KIND OF AN E, T, A, WE COULD PEG ON YOU HERE? 7:19 PM

N6BHU FAR OUT, HEY JERRY, WHAT DO YOU CALL AN EIGHTEEN YEAR OLD,
UH AN EIGHTEEN YEAR OLD GIRL FROM THE SOUTH?

OS #2 UH, WELL IF SHE'S ON THE PILL I'D CALL HER A SAFE CRACKER.

N6BHU YEAH, RIGHT, I LIKE THOSE SOUTHERN CHICKS, MAN THEY GIVE
GOOD HEAD.

INTERCEPT

PAGE NO. 4 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur EMN F3 QSA _____ OBS _____ DATE _____
SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett
GMT: January 24, 1981

OS #2 AH, GOOD HEAD, GOOD PUSSY, GOOD ASS, YOU NAME IT, AH LOVE IT,
LOVE IT, LOVE IT, LET ME TELL YOU THERE AIN'T A ORIFICE ON
THEIR BODY THAT I DON'T LOVE.

N6BHU YEAH, WELL I'LL TELL YOU, THOSE SOUTHERN CHICKS MAN THEY
CAN FUCK LIKE RABBITS MAN WHEN THEY MOVE THEIR ASS, YOU
CAN FEEL IT MAN JUST BOUNCING ALL OVER THE PLACE, BOUNCING
LIKE A FOUR WHEEL DRIVE TRUCK, GOING, GOING ACROSS A DESERT.

OS #2 WHERE DO YOU THINK THEY GET IT FROM BOUNCING THEIR ASS AROUND
IN A FOUR WHEEL DRIVE TRUCK UP AND DOWN THEM HILLS.

N6BHU YEAH, NO SHIT SHERLOCK, YEAH, NO SURE SHIT LOCK.

7:20 PM

OS #2 WELL MAYBE JUST A LITTLE BIT.

N6BHU YEAH, WOW, UH, ANY WAY MAN, THEY FAR OUT W(UNINTELLIGIBLE)
N,6,B,H,U, MOBILE, UH MOBILE I BEEN WORKING SO MUCH MOBILE
I SIGN MOBILE EVEN WHEN I'M IN THE BASE. CHRIST, I CAN JUST
SEE MYSELF SITTING ON THE DAMN TOILET WITH A HANDI-TALKIE,
SIGNING N,6,B,H,U, MOBILE, I COULD SIGN N,6, B,H,U, MARITIME
MOBILE THAT WOULD APPLY.

OS #2 AH SHIT I DO THAT ALL THE TIME, ANY TIME I'M SITTING ON THE
JOHN, IT'S MARITIME MOBILE.

OS (BELCHING SOUND)

OS (SOUND EFFECT)

OS FLUNGE

N6BHU FLUNGE, F,L,U,N,G,E, FLUNGE FAT LADIES UNDERWEAR NEVER GETS
EATEN, THAT'S WHAT FLUNGE MEANS. SO ANYBODY OUT THERE WHO
WONDERS WHAT FLUNGE MEANS, THAT'S WHAT IT MEANS, TAKE THE
FLUNGE FLUNGE.

OS #2 EAT A FAT BROAD

INTERCEPT

PAGE NO. 5 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU _____ FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
VOC Amateur _____ EMN F3 QSA _____ OBS _____ DATE _____
SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett
GMT: January 24, 1981

N6BHU
&
OS #2 (SOUND EFFECTS, REPEATED) 7:21 PM

N6BHU NEGROIDS COMMUNICATING
OS #2 (SOUND EFFECT)
N6BHU (SOUND EFFECT)
OS #2 FLUNGE
N6BHU FLUNGE
OS #2 Q, R, X, I GOT COMPANY
N6BHU (SOUND EFFECTS) (PAUSE)
WHERE ARE - A - YOU CARROWS
N6BHU WHAT'S HAPPENED TO YOU.
OS #2 HEY I GOT COMPANY MAN.
N6BHU AH YES, I'M NOT A COMPANY MAN (PAUSE)
N6BHU YOU GOT POON - TANG OVER THERE? (PAUSE)
N6BHU YES HE DOES HE HASN'T REPLIED YET.
N6BHU UH, OH, GOT COMPANY, HE HASN'T COME BACK ON RADIO YET, I HOPE
IT AIN'T THE POLICE 7:22 PM
OS #2 WHAT ARE YOU DAVE, YOU DUAL FREQ - ING OR WHAT?
N6BHU HUH?

INTERCEPT

PAGE NO. 6 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU _____ FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur _____ EMN F3 _____ QSA _____ OBS _____ DATE _____
SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett
GMT: January 24, 1981

OS #2 YOU DUAL FREQ-ING OR IS THERE ANOTHER FREAK OUT THERE?
(PAUSE)

N6BHU DUAL FREQ-ING, WHAT DO YOU MEAN, DUAL FREQ-ING

OS #2 OH IT'S NOT THE POLICE, RIGHT THAT'S THE COMPANY, IT
AIN'T THE PIGS MAN, SCARED THE SHIT OUT OF ME FOR A
MINUTE THOUGH (LAUGHTER) NAW MAN SOMEBODY'S GOING (SOUND
EFFECT) OVER ON FOUR EIGHT.

OS (OTHER STATION UNINTELLIGIBLE)

N6BHU WOW, IT THAT'S H, D, B, OH WHAT AN ASSHOLE

OS #2 WELL THERE GOES THE CHANNEL

(OTHER STATION BARELY AUDIBLE, UNINTELLIGIBLE)

N6BHU OH, IT'S THAT H, D, B, I HATE THAT FUCKHEAD

OS #2 HEY, WATCH YOUR FUCKING LANGUAGE

(OTHER STATION BARELY AUDIBLE, UNINTELLIGIBLE)

N6BHU WATCH YOUR FUCKING LANGUAGE ASSHOLE

7:23 PM

(OTHER STATION BARELY AUDIBLE, UNINTELLIGIBLE)

N6BHU WHY DON'T YOU WIPE YOUR ASSHOLE OFF SO WE CAN HEAR YOU

(OTHER STATION BARELY AUDIBLE, UNINTELLIGIBLE)

N6BHU GO FLUSH YOURSELF DOWN THE HO - TOILET YOU ASSHOLE

(PAUSE)

INTERCEPT

PAGE NO. 7 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU _____ FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur _____ EMN F3 QSA _____ OBS _____ DATE _____
SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett

GMR: January 24, 1981

OS OH GO LAY AN EGG YOU TWIT

(PAUSE)

OS (SOUND EFFECTS, REPEATED)

LAUGHTER

(PAUSE)

7:24 PM

OS (LAUGHTER)

OS RADIO AMATEURS ARE THE CRAZIEST PEOPLE (LAUGHTER)

OS KA, KA, (PAUSE) STOP IT, (PAUSE) (SOUND EFFECTS) OK
(PAUSE)

7:25 PM

OS OH, YOU BLASTED BLUNDERING TWIT, YOU TWIT, YOU BLOODY FUCKING
BASTARD, OH, I LOVE IT.

(PAUSE)

OS WOW

(PAUSE)

OS (MUSIC. IN BACKGROUND) BAAA

OS (HYENA LAUGHTER, SOUND EFFECT)

7:26 PM

(PAUSE)

OS (HYENA LAUGHTER, SOUND EFFECT)

OS (MUSIC 21 SEC.)

OS (HYENA LAUGHTER, SOUND EFFECT)

7:27 PM

OS (MUSIC 31 SEC)

(PAUSE)

INTERCEPT

PAGE NO. 8 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU _____ FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur _____ EMN F3 QSA _____ OBS _____ DATE _____

SIGNAL DESCRIPTION: Male Voice

Transcribed by: A. Bennett

GMT: January 24, 1981

OS	WHISTLE	7:28 PM
	(PAUSE)	
OS	(MUSIC 49 SEC)	
	(PAUSE)	
OS	(MUSIC 9SEC)	7:29 PM
	(PAUSE)	
OS	(MUSIC 1 MIN 19 SEC)	7:30 PM
OS	LOVE IT	7:31 PM
N6BHU	HEY THERE, W, D, 5, J, E, A, N,6,B,H,U WHAT ARE YOU DOING THERE CRISS?	
	(PAUSE)	
N6BHU	YEAH, NO SHIT SHERLOCK	
	(PAUSE)	
N6BHU	HOLD TIGHT A SEC, BE RIGHT BACK, N6BHU, QRX	
	(PAUSE)	
N6BHU ?	(SOUND EFFECT, FLATULENCE)	7:32 PM
	(PAUSE)	
N6BHU ?	(SOUND EFFECT, FLATULENCE)	
	(PAUSE)	
N6BHU	SAY WHAT THERE?	
N6BHU	ATOMIC FISHING?	

INTERCEPT

PAGE NO. 11 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur EMN F3 QSA _____ OBS _____ DATE _____

SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett

GMT: January 24, 1981

OS #5 THAT'S RIGHT WE HAVE BEEN PARTYING TODAY.

N6BHU YEAH, I WOULD BE WASTED WHEN I WENT OVER THERE, I'D HAVE A COUPLE OF JOINTS FIRST, JESUS CHRIST, YOU KNOW, I MEAN PEOPLE, PEOPLE TAKE THIS SHIT SO GOD DAMN SERIOUSLY, AND PEOPLE CALL ME A FUCKING SON-OF-A-BITCH ALL THE TIME, AND EVERY THING. DO I GO OVER THERE AND BLOW THEIR FUCKING ASSES AWAY? NO I JUST LAUGH IN THERE FUCKING FACES. YOU GUYS ARE REALLY GOD DAMN SAD IF YOU GOTTA GO OUT BLOW SOMEBODY CAUSE YOU DON'T LIKE THE WAY HE TALKS ON THE FUCKING RADIO, QUITE FRANKLY, YOU KNOW I THINK YOU CAN ALL JUST GO TO HELL.

7:37 PM

OS #3 AH YOU'RE MISSING THE WHOLE POINT, THE WHOLE POINT IS THAT YOU'RE ACTING LIKE THE LITTLE (TRANSMISSION'S BLOCKED) THAT TOO MUCH AS FAR AS YOUR ABILITY IS CONCERNED IS, AS A GENTLEMAN. IT CERTAINLY YOU COULD USE A LITTLE BETTER COMMON SENSE ON AMATEUR THAN USE THAT TYPE OF LANGUAGE. IT NOT ILLEGAL, BUT IT CERTAINLY ISN'T IN GOOD TASTE. THAT'S THE WHOLE POINT RIGHT THERE, N, 6, B, S,

OS WHO ASKED?

N6BHU YEAH, WELL I'LL TELL YOU SOMETHING, STAR-KIST DOESN'T WANT TUNA WITH GOOD TASTE, STAR-KIST WANTS TUNA THAT TASTES GOOD.

(PAUSE)

(UNINTELLIGIBLE, SEVERAL STATIONS)

OS YEAH, THEY'VE ALL BEEN OUT DRINKING BEER TODAY, DON'T WORRY ABOUT.

7:38 PM

N6BHU WELL I'LL TELL YOU SOMETHING, I DON'T CLAIM I CAN KICK EVERYBODY'S ASS, BUT YOU KNOW, SOME SON OF A BITCHES THEY, ALL THEY WANT TO DO IS KICK SOMEONE'S ASS CAUSE THEY DON'T LIKE THE WAY THEY TALK ON THE RADIO. I DIDN'T TELL THEM TO FLIP TO THIS FUCKING CHANNEL SO HE CAN JUST GO YOU KNOW, IF HE WANTS TO LISTEN TO OLD BUZZARDS AND STUFF TALK ABOUT THEIR ANTENNAS AND THEIR TOWERS. WHY DOESN'T HE GO TO SIX, SEVEN, LET HIM, LET HIM GO TO HENRY RADIO REPEATER WHERE IT'S ALL CLEAN, AND OF CHASTE CHARACTER. BUT YOU KNOW WHAT KIND OF SHIT HANGS OUT OF HERE SO IF YOU DON'T LIKE IT WHY DON'T YOU JUST TURN YOUR FUCKING RADIO OFF OR GO SOME PLACE ELSE.

INTERCEPT

PAGE NO. 12 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU _____ FREQ 146.010 MHz _____ CALL WORKED _____ FREQ _____
SVC Amateur _____ EMN F3 _____ QSA _____ OBS _____ DATE _____
SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett
GMT: January 24, 1981

N6BHU (CONTINUED)

I MEAN, HELL THIS IS FREEDOM OF EXPRESSION, YOU MEAN I CAN'T
TALK THE WAY I WANT TO FUCKING TALK? THIS IS THE GOD DAMN
UNITED STATES OF AMERICA, I MEAN I HAVE MY GOD DAMN RIGHTS IN
THIS COUNTRY. AND A FIRST, MY FIRST GOD DAMN RIGHT IS FREEDOM
OF EXPRESSION. AND DON'T YOU FORGET IT, NOW LET'S ALL SING
A ROUND OF STAR SPANGLED BANNER.

7:39 PM

OS OH I LOVE IT, W, A 6, N, Q,.....

(PAUSE)

OS OH HERE IT COMES

(UNINTELLIGIBLE, SEVERAL STATIONS)

OS #3

..... SHOULD CONSIDER WHAT YOU'RE SAYING BECAUSE YOU'RE PUTTING
A LABEL ON YOURSELF, WHEN YOU USE THAT TYPE OF LANGUAGE, YOU'RE
SHOWING YOUR BACKGROUND AND THE TYPE OF INDIVIDUAL YOU ARE. AND
PERSONALLY, I WOULDN'T WANT TO HAVE MY CALL (UNINTELLIGIBLE)
LABELED (UNINTELLIGIBLE) WAY YOU HAVE YOURS. BUT THAT'S UP TO
YOU, NOT TELLING YOU CAN'T USE THAT TYPE OF LANGUAGE, YOU
CERTAINLY CAN, IT'S JUST IN BAD TASTE AND AS FAR AS ME GOING
TO ANOTHER FREQUENCY, I DON'T HAVE TO DO THAT, NEITHER DO YOU AND
AS LONG AS I'M LICENSED TO BE ON THIS FREQUENCY, I THINK I'LL
STAY ON THIS FREQUENCY AND NO ONE WILL TELL ME HOW TO RUN MY
STATION, AS IF I'M NOT TRYING TO TELL YOU HOW TO RUN YOUR STATION,
I'M REALLY NOT, I JUST THINK YOU SHOULD USE A LITTLE COMMON
SENSE BUT IF YOU DON'T THAT ALRIGHT TOO. THAT'S UP TO YOU, YOUR
THE ONE THAT HAS THE LABEL, NOBODY ELSE, APPARENTLY (FADE OUT)
AND UH IT DOESN'T SEEM LIKE YOU'RE TOO WELL EDUCATED BUT YOU
MIGHT BE TOO. I'M NOT GOING TO JUDGE THAT BUT CERTAINLY YOU
DON'T HAVE ANY COMMON SENSE, THERE IS NO QUESTION ABOUT THAT.
(FADE OUT)(UNINTELLIGIBLE) BUT YOUR THE ONE THAT'S GONNA HAVE
TO WEAR THE LABEL (UNINTELLIGIBLE) SO WHEN YOU TELL PEOPLE WHO
YOUR CALL IS YOU'RE THE ONE THEY'RE GONNA LOOK AT AND DISMISS,
NOT THE OTHER FELLOW, SO IT'S UP TO YOU (UNINTELLIGIBLE)
N, 6, B, S.

7:40 PM

INTERCEPT

PAGE NO. 13 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur EMN F3 QSA _____ OBS _____ DATE _____
SIGNAL DESCRIPTION: Male Voice Transcribed by: A. Bennett
GMT: January 24, 1981

N6BHU

YEAH, WELL, N, 6; B, S, WHAT DOES B, S, STAND FOR? NOW I'LL
TELL YOU SOMETHING THERE PAL, YOU KNOW, THIS IS MY RIGHT
TALK LIKE THAT, SURE YOU DON'T HAVE TO GO TO ANOTHER FREQUENCY
BUT THE FACT IS, I GOT HERE BEFORE YOU DID, NOW WHAT HAPPENS
WHEN UH YOU SEE A COMMERCIAL ON TELEVISION YOU DON'T LIKE? YOU
JUST SIT THERE AND SAY I HATE THAT GOD DAMN COMMERCIAL AND
BITCH ABOUT IT OR DO YOU TURN THE FUCKING THING OFF? OK, YOU
DON'T LIKE MY PROCEDURES, WELL TOUGH, THAT'S THE WAY THEY ARE.
UH, YOU KNOW I DON'T LIKE YOUR COMING AND TELLING ME UH YOU
KNOW ALRIGHT THAT'S YOUR FREEDOM OF EXPRESSION TOO, BUT I
DON'T LIKE YOUR TELLING ME UH HOW THE FUCK TO RUN MY RADIO
STATION, AND UH QUITE FRANKLY, ALRIGHT YOU WANT TO SAY THAT
UH YOU KNOW. ALL YOU GUYS GAVE ME MY RIGHTS AND SHIT. WELL,
I'LL TELL YOU SOMETHING, THIS COUNTRY, WE'VE GOT OUR, WE'VE
GOT THE FREEDOM OF EXPRESSION, I'LL SAY IT OVER, AND OVER AND
OVER AGAIN IF SOMEBODYS GONNA COME BLOW MY ASS AWAY, BECAUSE
I CAN'T EXPRESS MY RIGHTS AS AN AMERICAN, JESUS CHRIST (BATTLE
HYMN OF REPUBLIC BEING SUNG IN BACKGROUND) I MEAN I'M AN
AMERICAN, JOHN WAYNE AND ALL THAT SORT OF SHIT. THIS IS
RIDICULOUS. I CAN'T EVEN LIVE LIKE A FUCKING AMERICAN.

7:41 PM

NAUGHTY, NAUGHTY, NAUGHTY

7:42 PM

6BHU

(SINGING, BATTLE HYMN OF THE REPUBLIC) (LAUGHTER) (16 SEC)
(PAUSE)

6BHU

SO YOU GONNA COME OVER AND BLOW MY ASS AWAY CAUSE YOU DON'T
LIKE THE WAY I TALK ON THE RADIO, WELL GO AHEAD AND DO IT,
SHOW WHAT A GOOD CLEAN FUCKING AMERICAN YOU ARE BY BLOWING
SOMEBODY AWAY CAUSE YOU DON'T LIKE THE FUCKING WAY HE TALKS,
YEAH THAT, THAT'S THE WAY EVERYTHINGS GOING. PEOPLE SAY THAT
YOU KNOW THAT AMERICA'S GOT TO BE THIS AND GOTTA BE THAT,
WELL IT JUST ISN'T THE WAY, EVERYBODY HAVE IT ALL THE WAY
FIGURED IN THEIR GOD DAMN HEADS, YOU KNOW, IF WE GOT RIGHTS
THEN WHAT THE HELL IS IT, JUST CAUSE SOMEBODY, YOU KNOW,
SOMEBODY CLAIMS THAT THEY BUSTED THEIR ASS UP IN VIETNAM,
AN ALL THAT, A WAR WE HAD NO BUSINESS CAUSE WE WERE TRYING
TO INTERFERE WITH BUSINESS THAT WASNT EVEN OURS AND ALL THAT

7:43 PM

INTERCEPT

PAGE NO. 14 STN/OFC _____ LOC'N _____ FILE _____
CALL N6BHU _____ FREQ 146.010 MHz. CALL WORKED _____ FREQ _____
SVC Amateur _____ EMN F3 QSA _____ OBS _____ DATE _____

SIGNAL DESCRIPTION: Male Voice

Transcribed by: A. Bennett

GMT: January 24, 1981

N6BHU (CONTINUED)

BULL SHIT, JESUS, OH WELL THAT'S, THAT'S ECONOMICS, THAT'S
ANOTHER THING I'M NOT GOING TO GET INTO THAT, I'M GONNA TAKE
OFF AND GO GET FUCKED UP WITH G, A, B, SO I'M GONNA GET OUT
OF HERE, BYE, BYE, BYE, BYE, BYE, BYE, BYE.

(PAUSE)

N6BHU

ENOUGH , UH SOMEBODY RESET YOU THERE OLD MAN, N, 6, B, H, U,
IS Q, R, T, AND CLEAR, I'M GONNA GO AND GET DRUNK WITH SOME
FRIENDS, BYE, BYE.

7:44 PM

(END OF INTERCEPT)

Before the
Federal Communications Commission FCC 83R-6
Washington, D. C. 20554

2003

In the Matter of

DAVID HILDEBRAND
3463 N. Knoll Drive
Hollywood, California 90068

PR DOCKET NO. 81-302

Licensee of Station N6BHU in
the Amateur Radio Service

Suspension of License of

DAVID HILDEBRAND
3463 N. Knoll Drive
Hollywood, California 90068

PR DOCKET NO. 81-303

Amateur Technician Class
Operator License

Appearances

David Hildebrand, pro se; and Thomas D. Fitz-Gibbon and
Carol Fox Foelak, on behalf of the Chief, Private Radio Bureau,
Federal Communications Commission.

DECISION

Adopted: January 20, 1983; Released: January 26, 1983

Board Member Blumenthal for the Review Board: Board Chairman Marino
issuing a separate statement.

1. In an Initial Decision (FCC 82D-67, released October 4, 1982), the ALJ (Joseph P. Gonzalez) revoked the Amateur Radio Service license of the subject upon a finding of a violation of 47 C.F.R. §97.119 1/ which prohibits the transmission of obscene, indecent, or profane matter. Hildebrand, pro se, has filed exceptions. The Private Radio Bureau urges affirmance.

2. The material facts are not in dispute. On January 24, 1981, Hildebrand engaged in an exchange over amateur radio frequencies in which he used gutter parlance. See I.D., para. 7. Nobody here

1/ This section of the Commission's rules tracks the Criminal Code provision set forth in 18 U.S.C. §1464 (1948).

contends that the material uttered was obscene within the legal definition; there is no appeal to prurient interests. ^{2/}

3. The Initial Decision, citing FCC v. Pacifica Foundation, 438 U.S. 726 (1978) and Rowan v. Post Office, 397 U.S. 728 (1970), found a general governmental right to protect citizens from the "unwelcomed views and ideas" into their homes. I.D., para. 15. Finding that there are 66 Amateur radio operators under 17 years of age licensed in the Los Angeles area (*id.*) and analogizing the reasoning in Pacifica, the ALJ revoked because of Hildebrand's alleged indecent language.

4. We must disagree with that decision. The Commission has precisely defined and proscribed indecent matter in certain broadcast contexts, Pacifica Foundation, 56 FCC 2d 94 (1975), and specifically articulated its concerns in the unique area of broadcasting where the signals are available indiscriminately even to children of very tender years. ^{3/} The Supreme Court narrowly affirmed the Commission's Pacifica ruling on that basis. ^{4/} Without such specific standards, proscriptions on speech may well be stricken for vagueness. Miller v. California, *supra* note 2, 413 U.S. at 24, 27; cf. Illinois Citizens Committee For Broadcasting v. FCC, 515 F.2d 397, 404-05 (D.C. Cir. 1974).

^{2/} See generally, Miller v. California, 413 U.S. 15 (1973). Were the transcripts proffered at hearing shown to be obscene within the established legal definition, a different result might here obtain.

^{3/} See 56 FCC 2d at 98:

[T]he concept of 'indecent' is intimately connected with the exposure of children to language that describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities and organs, at times of the day when there is a reasonable risk that children may be in the audience. 56 F.C.C.2d, at 98. [Emphasis added.]

Each medium of expression has its own First Amendment problems. Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495 (1952).

^{4/} Emphasizing the unique and pervasive nature of broadcasting, the Pacifica Court stated:

"It is appropriate, in conclusion, to emphasize the narrowness of our holding. This case does not involve a two-way radio conversation between a cab driver and a dispatcher. . . ." [438 U.S. at 750.]

Amateur communications are not a form of broadcasting and are not transmitted to the public-at-large, compare 47 C.F.R. §§97.3(b), 97.89, 97.91, with 47 U.S.C. §153(o).

5. Although we recognize that 18 U.S.C. §1464 remains on the statute books and do not, of course, question its basic validity, ^{5/} we must also not disregard the substantial judicial refinement of governmental parameters in this sensitive area of the law. See, e.g., Cohen v. California, 403 U.S. 15 (1971). Nor are we or the ALJ empowered to extend the Commission's finely-wrought policy regarding the channeling of material in the broadcast media and set forth in its declaratory ruling in Pacific Foundation, supra, to non-broadcast services. Cf. Horne Industries, Inc., FCC 82R-68, released November 26, 1982 (Rev. Bd.) (Board not empowered to make policy). While the Private Radio Bureau cites apparently unpublished material for the proposition that the agency has taken action under §97.119 of the Rules, it is not clear that any of those proceedings involved that rule solely or defined indecency in the non-broadcast context. No other rule violations are here pressed against Hildebrand. ^{6/}

6. ACCORDINGLY, IT IS ORDERED, That the motion to strike, or in the alternative, to accept responsive pleading, filed November 22, 1982, by the Chief, Private Radio Bureau, IS GRANTED to the extent that its reply brief is accepted and IS DENIED in all other respects; and

7. IT IS FURTHER ORDERED, That the Order to Show Cause why David H. Hildebrand's license for Amateur radio station N6BHU should not be revoked and suspending his Amateur Technician Class operator license IS DISMISSED and the proceeding IS TERMINATED.


Norman B. Blumenthal
Member, Review Board
Federal Communications Commission

^{5/} 18 U.S.C. §1464 was originally embodied as Section 29 of the Radio Act of 1927, 44 Stat. 1172-1173.

^{6/} In light of our decision, we need not consider Hildebrand's other technical and procedural exceptions to the Initial Decision.

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SEPARATE STATEMENT OF BOARD CHAIRMAN MARINO

While joining fully in the Board's unanimous decision, this case and the still smoldering controversy in Faith Center, Inc., FCC 83R-3, released January 17, 1983, indicate that there is a continuing need for the utilization of procedural means which will permit a radio licensee to obtain Commission and Court adjudication of his constitutional rights without putting his license in jeopardy. See e.g., Pacifica Foundation, 56 FCC 2d 94, para. 15 (1975).

A decade ago then Chairman Dean Burch warned that often the evil sought to be cured by government action "requires the delicate hands of a surgeon. The type of surgery that you [the licensees] can best prescribe -- and perform -- within your ranks. I fear as you do the hands of the government that will be called upon as a last resort -- the stubby, gnarled bureaucratic hands that belong on a 3rd string catcher in the minor leagues, not on a public interest physician." J. A. p. 12, Illinois Citizen Committee for Broadcast v. FCC, 515 F.2d 397 (D.C. Cir. 1974).

Past and the recent renewal and revocation cases confirm the wisdom of this Commission's traditional reliance on licensee self restraint, and the Commission's reluctance to take any action which may even remotely infringe upon constitutional rights without first permitting the licensee to obtain judicial review. See e.g., Red Lion Broadcasting Co., v. FCC, 395 U.S. 367 (1969); Yale Broadcasting v. FCC, 478 F.2d 594 (D.C. Cir. 1973); Illinois Citizen Committee, *supra*; Pacifica Foundation, 56 FCC 2d 94, paras. 15 and 16 (1975), affirmed 438 U.S. 726 (1978).

In the Hildebrand case, FCC 83R-6, the Board's decision deftly corrects a well meaning but badly flawed effort to sanction an individual licensee who maintained he was exercising his freedom of expression. PRB Ex. 2, p. 12. As previously noted Faith Center's constitutional objections should be sharply focused and directed to the Commission which has jurisdiction over the issue. Faith Center, Inc., *supra*, FCC 83R-3, para. 17.