

DEC 17 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID S. HAEG,

Petitioner,

v.

MICHAEL P. HUERTA, Administrator,
Federal Aviation Administration,

Respondent.

No. 13-73737

MEMORANDUM*

On Petition for Review of an Order of the
National Transportation Safety Board

Submitted December 9, 2015**

Before: WALLACE, RAWLINSON, and IKUTA, Circuit Judges.

David S. Haeg petitions pro se for review of a final order of the National Transportation Safety Board (“NTSB”) suspending his commercial pilot certificate. We have jurisdiction under 49 U.S.C. § 1153(a). We will sustain an

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Haeg’s request for oral argument, set forth in his opening brief, is denied.

agency's decision unless it is arbitrary, capricious, an abuse of discretion, or not otherwise in accordance with the law, and its factual findings unless they are not supported by the substantial evidence. *Essery v. Dep't of Transp.*, 857 F.2d 1286, 1288 (9th Cir. 1988). We deny the petition.

The NTSB's order concluding that Haeg flew his plane recklessly and too low over a congested area, in violation of federal regulations, is supported by substantial evidence and free of legal error. *See* 14 C.F.R. §§ 91.13(a), 91.119(c) (prohibiting careless or reckless aircraft operation and setting a minimum altitude for operation of aircraft over congested areas); *Andrzejewski v. FAA*, 563 F.3d 796, 799 (9th Cir. 2009) ("The NTSB must leave undisturbed an [administrative law judge's] credibility finding 'unless there is a compelling reason or the finding was clearly erroneous.'").

The administrative law judge did not abuse his discretion in rejecting Haeg's impeachment evidence as irrelevant. *See* 5 U.S.C. § 556(d) (providing for exclusion of "irrelevant, immaterial, or unduly repetitious evidence"); *Atl.-Pac. Constr. Co. v. NLRB*, 52 F.3d 260, 263 (9th Cir. 1995) (standard of review).

We reject as unsupported Haeg's contentions regarding alleged prosecutorial misconduct and alleged judicial bias.

PETITION FOR REVIEW DENIED.