

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 23 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

PAYAM KAMBOD,

No. 16-71054

Petitioner,

NTSB No. EA-5767

v.

MEMORANDUM\*

FEDERAL AVIATION  
ADMINISTRATION; NATIONAL  
TRANSPORTATION SAFETY BOARD,

Respondents.

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

Submitted March 8, 2017\*\*

Before: LEAVY, W. FLETCHER, and OWENS, Circuit Judges.

Payam Kambod petitions pro se for review of the National Transportation Safety Board's ("NTSB") final order revoking Kambod's airline pilot, flight instructor, and ground instructor certificates. We have jurisdiction under 49 U.S.C. §§ 1153(a), 44709(f), and 46110(a). We review the NTSB's final order under the

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

arbitrary and capricious standard. *Gilbert v. NTSB*, 80 F.3d 364, 368 (9th Cir. 1996). We deny the petition for review.

The NTSB's determination that the administrative law judge ("ALJ") did not abuse his discretion in denying Kambod's requests for a continuance was not arbitrary and capricious because the ALJ had broad discretion to regulate the conduct of the hearing. *See* 49 C.F.R. § 821.35(b); *Adm'r v. Lackey*, NTSB Order No. EA-5419 (2008) ("We have long held that law judges have significant discretion in overseeing administrative hearings and admitting evidence into the record.").

The NTSB's determination that the ALJ did not abuse his discretion in denying Kambod's request for a waiver of emergency proceedings was not arbitrary and capricious because delaying the proceedings after the hearing had commenced would have placed an undue burden on the Administrator, court resources, witnesses, and the ALJ. *See* 49 C.F.R. § 821.52(d); *Tur v. FAA*, 4 F.3d 766, 770 (9th Cir. 1993) (discussing waiver of emergency proceedings).

Because Kambod failed to raise any of his other contentions before the NTSB, those contentions are waived. *See* 49 U.S.C. § 46110(d); *Reid v. Engen*, 765 F.2d 1457, 1462 (9th Cir. 1985) (citations omitted) (declining to rule on issues not raised before an agency tribunal).

We reject as without merit Kambod's contentions regarding FAA or ALJ bias.

**PETITION DENIED.**