

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-1481**September Term, 2020****NTSB-EA-5882****Filed On: August 24, 2021**

Kevin Richard Pinger,

Petitioner

v.

Federal Aviation Administration and National
Transportation Safety Board,

Respondents

**PETITION FOR REVIEW FROM AN ORDER OF THE
NATIONAL TRANSPORTATION SAFETY BOARD**

BEFORE: Henderson, Millett, and Walker, Circuit Judges

J U D G M E N T

This petition for review of an order of the National Transportation Safety Board ("Board") was considered on the briefs and appendix filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing, the motion for leave to file an amicus brief, the response thereto, and the lodged amicus brief, it is

ORDERED that the motion for leave to file an amicus brief be granted. The Clerk is directed to file the lodged brief. The court will not consider the affidavit of Evan Williams attached to the brief because amicus has not presented any justification for considering extra-record evidence. See *Walter O. Boswell Mem'l Hosp. v. Heckler*, 749 F.2d 788, 792 (D.C. Cir. 1984) ("If a court is to review an agency's action fairly, it should have before it neither more nor less information than did the agency when it made its decision."). It is

FURTHER ORDERED and ADJUDGED that the petition for review be denied. The Board's October 29, 2020 order is supported by substantial evidence, see *Dickson v. NTSB*, 639 F.3d 539, 542 (D.C. Cir. 2011), and is not arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law, see *Lauterbach v. Huerta*, 817 F.3d 347, 350 (D.C. Cir. 2016) (quoting 5 U.S.C. § 706(2)(A)). The Board properly concluded that 14 C.F.R. § 43.15(a)(1) applies to this case because petitioner performed a 100-hour inspection, which was required by 14 C.F.R. § 91.409(b), and that petitioner's failure to properly perform the inspection was a violation of

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§ 43.15(a)(1). Additionally, the Board properly affirmed the rulings of the Administrative Law Judge on the admissibility of evidence. See Throckmorton v. NTSB, 963 F.2d 441, 444-45 (D.C. Cir. 1992).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Daniel J. Reidy
Deputy Clerk