

UNITED STATES DISTRICT COURT

for the
District of Oregon

FILED 10 JAN 8 1536 USDC-ORP

United States of America)
v.)
JOSEPH HEDLUND JOHNSON)
DOB: 02/19/53)
_____)
Defendant(s)

Case No. 10-mj-401

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 01/06/2010 in the county of _____ in the
District of Oregon, the defendant(s) violated:

Code Section
49 U.S.C. § 46504

Offense Description
interference with a flight crew member or flight attendant



to be a true and correct
copy of original filed in this District.

1/8/2010
Mary Moran, Clerk of Court
District Court of Oregon
Deputy Clerk
Pages 1 Through 1

This criminal complaint is based on these facts:

See attached Affidavit of FBI Special Agent Micheal J. Torphy

Continued on the attached sheet.

Micheal J. Torphy
Complainant's signature

Micheal J. Torphy, Special Agent, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 01/08/2010

Donald C. Ashmanskas
Judge's signature

City and state: Portland, Oregon

Donald C. Ashmanskas, U.S. Magistrate Judge
Printed name and title

STATE OF OREGON)
)
County of Multnomah) ss. AFFIDAVIT OF MICHEAL J. TORPHY

I, Micheal J. Torphy, being first duly sworn, depose and state the following:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and am presently assigned to the Portland Division, located in Portland, Oregon. I have been a Special Agent with the FBI for approximately three and a half years. Since my assignment to the Portland Division, my primary duties have included the investigation of violent crime and domestic terrorism. For the past year, I have been assigned as the FBI's liaison with the Portland International Airport, and in that capacity I have conducted several investigations involving crimes committed aboard aircraft.

2. This affidavit is submitted to support an arrest warrant for Joseph Hedlund Johnson, a white male adult, date of birth February 19, 1953, for interference with flight crew members and attendants, in violation of Title 49 United States Code, Section 46506.¹

¹ 49 U.S.C. § 46504 provides:

An individual on an aircraft in the special jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, or attempts or conspires to do such an act, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

(continued...)

3. I have personally conducted an investigation into this matter, and have spoken with other investigators and police officers familiar with this investigation. This affidavit does not contain all facts known to me regarding this investigation, but instead contains only those facts which I believe are sufficient to establish probable cause. Through my involvement in this investigation, I have become aware of the following information:

4. On January 6, 2010, at approximately 12:30 PM, I was notified by the Transportation Security Administration (TSA) and the Port of Portland Police Department (POPPD) that Hawaiian Airlines Flight 39, a Boeing 767 destined for Kahului, Hawaii, which had already been in flight for at least 90 minutes, was returning to its origin, Portland International Airport (hereinafter referred to by its airport code, PDX), because a passenger had handed a threatening note to a flight attendant. I was told that the note contained references to death, a plane crash, and Gilligan's Island, but that it did not appear to be a hijacking attempt. I was also informed that two F-15 fighter jets were scrambled from the Oregon Air National Guard to intercept and escort the aircraft back to PDX.

(...continued)

Furthermore, 49 U.S.C. § 46501(2)(A) defines "special aircraft jurisdiction of the United States" to include "a civil aircraft of the United States." Hawaiian Airlines, on which the offense alleged took place, is a United States commercial airline. Flight 39 was facilitated by a Boeing 737-300 bearing Federal Aviation Administration registration number N589HA. Thus, flight 39 involved a "civil aircraft of the United States" and the offense at issue therefore took place in the special aircraft jurisdiction of the United States.

5. Special Agent (SA) Travis Gluesenkamp and I responded to PDX and awaited the aircraft's arrival, which had just landed and was being escorted by airport fire apparatus while taxiing to gate D-10. When the aircraft parked and was connected to the jetway, SA Gluesenkamp and I, along with other law enforcement officials, boarded the aircraft to assess the situation. I learned that the passenger who wrote the note was Johnson, and that he was seated in aisle seat 25B next to a female traveling companion.

6. POPPD officers contacted Johnson, who was seated in his assigned seat. Johnson was traveling with his girlfriend, Carroll Ann Miller, who was seated next to him in window seat 25A. Both seats were located in an emergency exit bulkhead row in the middle of the aircraft. The officers informed Johnson that they needed to speak with both him and Miller outside of the plane. Johnson and Miller voluntarily complied and pointed out their luggage to the officers, which consisted of two small carry-on cases and one carry-on duffel bag. The couple had not checked any luggage. Johnson and Miller were then escorted off the aircraft by the officers.

7. Johnson and Miller were then escorted to a waiting area near the gate and separately searched for weapons. In addition, Johnson and Miller's luggage were re-screened and searched by TSA officials with the assistance of FBI and POPPD bomb technicians. No dangerous items were found either on their person or in their luggage. POPPD officers asked Johnson if he would be willing to answer some questions at the POPPD office located within PDX. Johnson replied that he would, and he was

subsequently handcuffed, per POPPD policy, and escorted to the POPPD office. I, along with SA Gluesenkamp and POPPD officers and detectives, then conducted several simultaneous interviews in order to learn about what had occurred on the flight.

8. SA Gluesenkamp interviewed Hawaiian Airlines Flight Attendant #1. Flight Attendant #1 advised that, during boarding, he noticed that two passengers, later identified as Johnson and Miller, were having trouble finding a place to stow their luggage. Flight Attendant #1 suggested to Johnson that if he placed his bag ahead of him in the cabin, it would be easier for him when he exits the aircraft. Instead, Johnson placed the bag under his seat. Flight Attendant #1 told Johnson that this space is reserved for the passenger seated behind him, and due to his seat being located at the bulkhead door, he does not have any under-the-seat storage available to him. Johnson was upset that he could not place his bag under his seat and he did not understand the reason Flight Attendant #1 gave him for not being able to store his bag there. Flight Attendant #1 stated that Johnson did not raise his voice, curse, or cause any problems, but he did appear agitated. Johnson held his bag in his lap for a brief time, but he eventually stored his bag in the overhead compartment to the rear of his seat. Flight Attendant #1 then returned to assisting other passengers board the aircraft, and had no further interactions with Johnson.

9. SA Gluesenkamp also interviewed Hawaiian Airlines Flight Attendant #2. Flight Attendant #2 advised that approximately forty-five minutes into the flight, he was handed a comment card from the male passenger seated in seat 25A, later identified as

Johnson. This seat is located next to his jump seat, and Flight Attendant #2 was preparing his beverage cart when he was handed the comment card.² Flight Attendant #2 opened the card and read it. It said something about the plane "breaking apart" and being "eaten by sharks." Flight Attendant #2 described the note as "weird." Flight Attendant #2 took the note to the front of the aircraft and gave it to the lead flight attendant. Flight Attendant #2 then returned to his duties. Flight Attendant #2 was later informed that the aircraft was being turned around due to the comment card that the passenger had wrote. Flight Attendant #2 stated that Johnson did not cause any problems and was quiet for most of the flight. Flight Attendant #2 spoke to Johnson during the last fifteen minutes of the return flight to Portland, during which time he and Johnson discussed a playing card that Johnson had received from a casino in Oregon.

10. SA Gluesenkamp also interviewed Flight Attendant #3, the lead flight attendant for Hawaiian Airlines flight 39. SA Gluesenkamp re-interviewed Flight Attendant #3 on January 7, 2010, during which time she provided additional clarifying information. Flight Attendant #3 advised that, during the flight, she was given a comment card by flight attendant Flight Attendant #2. Flight Attendant #3 read the card, which had already been opened. Flight Attendant #3 assumed that this was how the customer had handed it to the flight attendant. Flight Attendant #3 stated that sealed comment cards are typically collected by her, placed in her "exit bag," and mailed to the

² According to a separate interview conducted by POPPD officers of Flight Attendant #2, Johnson stated, "this is for you," when he handed the card to the flight attendant.

address printed on the card. Flight Attendant #3 stated that it would be unusual for a flight attendant to open a comment card during the flight. She also stated that it is unusual for attendants to receive a comment card during a flight, especially so early into a flight when they hadn't even started the beverage service. Flight Attendant #3 explained that a flight attendant would be allowed to open the card if they felt there was some kind of a security risk, something they could correct at that moment, or if they felt threatened. However, Flight Attendant #3 was not sure why Flight Attendant #2 opened the card. While Flight Attendant #3 did not feel personally intimidated, she felt that the card's contents were alarming and that the pilot needed to be informed. Based on the contents of the card, Flight Attendant #3 felt that the person who wrote it, later identified as Johnson, was likely a "crazy person" and that the flight attendants would need to watch him. Flight Attendant #3 gave the card to the pilot and spoke with the other flight attendants. She was later informed that there was an issue with Johnson's bag during the boarding of the flight, but she noted that this was common with passengers seated in the bulkhead section. Flight Attendant #3 also advised that Johnson was calm for the duration of the flight.

11. SA Gluesenkamp then interviewed the Captain of Hawaiian Airlines flight 39. SA Gluesenkamp re-interviewed the Captain on January 7, 2010, during which time the Captain provided additional clarifying information. During the flight, the Captain was handed the aforementioned comment card by Flight Attendant #3 and she informed him that a passenger, later identified as Johnson, had just given the card to one of the flight

attendants. The Captain was also informed that Johnson had kept his bag close against his lap during boarding, and did not want to stow it where he couldn't get to it. After reading the card, the Captain locked the flight deck door as a precaution.

12. During the interview, the Captain showed the card to SA Gluesenkamp, pointing at several lines that had alarmed him. The Captain then read portions of the handwritten card aloud to SA Gluesenkamp, which included the phrases "I thought I was going to die," "I hope we don't crash and burn," and "what if the plane ripped apart in mid-flight and we plummeted (sic) to earth" The Captain provided the card to SA Gluesenkamp, which has been retained as evidence at the Portland office of the FBI. A copy of the card is attached and incorporated as part of this affidavit.

13. During the interview, the Captain stated that he absolutely felt threatened by the contents of the card, especially when he considered Johnson's earlier suspicious behavior with his bag. Approximately 30 minutes after receiving the card, and after contacting his corporate office for guidance, the Captain decided to declare an emergency and return the aircraft to PDX. The Captain estimated that the aircraft had been in flight for one and a half to two hours before he turned the aircraft around. The Captain informed the passengers that the aircraft was returning to PDX due to mechanical issues.

14. POPPD officers interviewed Johnson's girlfriend, Miller, who was seated next to him during the flight. The officers advised Miller that she was not under arrest but that she was being detained for questioning. She was also advised of her Miranda

rights, which she stated that she understood. Miller was asked if she had any idea why the plane had returned to the airport, to which Miller replied she thought there were mechanical problems. Upon questioning, Miller stated that she had not written any notes while on the plane, but that her boyfriend, Johnson, had filled out a comment card. Miller stated that Johnson was just entertaining himself by writing, and that he was laughing while he was writing it. Miller read the note and saw that Johnson had written things like, "what if this happened . . . what if I get scared . . . or what if we fall into the ocean and get eaten by sharks, or land on an island and get eaten by headhunters." Miller stated that Johnson is always trying to be funny and jokes all the time. Miller stated that after completing the comment card, Johnson got up and handed it to a flight attendant, asking him to deliver it. Miller did not help Johnson write the note and thought he was just being stupid by making up a "fairy tale story." After providing a voluntary written statement, Johnson's luggage was returned to her and she was released from the POPPD office.

15. At approximately 2:13 PM, I interviewed Johnson at the POPPD office located at PDX. After introducing myself to Johnson, I asked him a series of questions in order to assess his health and mental state. Johnson stated that he is "dying" of hepatitis C and splenomegia (phonetic), as well as other unspecified medical conditions. He stated that he is disabled and his only source of income is through Social Security benefits. Johnson stated that he was not under the influence of drugs or alcohol. Johnson added

that he took a Tylenol in the morning due to a headache, and later ate a meal. Johnson was provided with a bottle of water, which he drank during the interview.

16. At approximately 2:18 PM, I read an FD-395 Advice of Rights form aloud to Johnson. He then signed the form, acknowledged that he understood his rights, and stated that he wished to speak with me about the flight. Johnson told me that, during boarding, he decided to let other passengers board the plane ahead of him because he knew he was seated at what the airline attendant referred to as the "bulkhead," and he thought he would have plenty of space. Once aboard the aircraft, Johnson found room in the overhead storage space above his seat to place one of Miller's suitcases. However, there was no additional room in the compartment due to a life raft being stored there. Johnson then placed Miller's second bag in the storage bin ahead of their seats. Due to the lack of storage space in the overhead storage bins near his seat, Johnson attempted to place his bag under his seat. He was informed by a flight attendant that he could not place his bag there because this storage space is dedicated to the passenger seated behind him. Johnson inquired with the flight attendant about why other passengers were allowed to place their bags under their seats but he was not. The flight attendant informed him that the passenger behind him needed a place to put their feet. Johnson felt that a person would need to be "ten feet tall" to need that much space. Johnson held his bag for a short amount of time until a woman seated a few rows behind him made space in the overhead

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storage bin above her seat. Johnson then placed his bag in that overhead storage bin and returned to his seat.

17. Johnson stated that a flight attendant briefed him and Miller on the safety procedures for being seated near the emergency exit door. Johnson was told that in the event of an emergency landing, he was to remove the safety door and place it on the seat. Miller made a joke that she would simply push the door out and escape if there was a crash. A short time later, but prior to take off, Johnson made a joke to the flight attendant that if they crashed, they would be eaten by sharks before they were rescued. Johnson felt that the flight attendant did not seem alarmed by what he said and he continued to do his job. Johnson had flown about four times in his life, and this was his first flight over a body of water.

18. Johnson told me that during the flight, he kept himself occupied by reading two in-flight magazines. After finishing them, approximately 30 to 45 minutes into the flight, Johnson filled out two comment cards that were provided by the airline. One card was a "check the box" kind of card, and the other allowed for comments to be written in. Johnson wrote down a joke that started with the phrase "I thought I was going to die." Johnson explained that this is a joke told by the comedian Mike Myers. Johnson also wrote that he "wouldn't want to crash and be eaten by sharks." He then wrote about ending up on Gilligan's Island with the professor. Johnson included his name, address, cellular telephone number, and flight information on the card. Johnson noticed that the

comment card stated that it could be mailed to the business address provided or simply given to a flight attendant. Johnson pulled the protective strip from the adhesive and sealed the comment card closed. He then handed it to the flight attendant that was seated next to him. Johnson stated that he thought the flight attendant would put it in some kind of box or place it in the mail.

19. Johnson stated that a short time later, the pilot announced that the aircraft was returning to Portland due to some mechanical issues. Johnson recalled asking the flight attendant what would cause the plane to have to turn around. The flight attendant informed him that there can only be a small number of mechanical problems with the aircraft when flying over water and they had to turn back. During the return trip, Johnson spoke to the flight attendant for a short time about his lucky playing card from a casino. Upon arriving at PDX, police officers boarded and escorted him off of the plane. Johnson stated that he did not know what had happened to cause this to occur.

20. I then showed Johnson the comment card that was provided by the Captain of the flight. When shown the card, Johnson stated that it was the same card he had filled out, and he proceeded to read the card aloud to me as he envisioned it would sound to someone that read it. I asked Johnson if the aircraft was over water when he handed the comment card to the flight attendant, to which he responded affirmatively. I then informed Johnson that the flight returned to Portland because of the comments he had written. Johnson stated that he didn't think anyone would open it during the flight. He

told me that he thought the card was going to be taken back to an office somewhere, opened, and everyone in the room would "get a laugh" from it, and that perhaps he'd even get some frequent flyer miles out of it. Johnson stated he didn't intend to scare anyone and he would not have written his name on the card if it was a threat. Johnson stated that he felt bad about what had happened and that he was sorry.

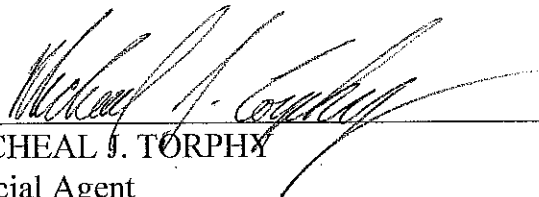
21. At approximately 2:50 PM, Johnson agreed to provide a voluntary written statement, describing his intent for writing the note and providing an apology for what had happened. Johnson completed and signed the statement at approximately 2:55 PM. The interview was then completed and Johnson was returned to a holding cell at approximately 3:11 PM.

22. Based on the information available to me at that time, I determined that Johnson did not present an immediate threat to public safety, and the incident appeared to have no nexus to terrorism. As a result, I directed POPPD officers to release Johnson and his luggage at approximately 3:30 PM.

23. The facts of this case have been briefed to District of Oregon Assistant United States Attorney Pamala Holsinger, who advised me that the prosecution of this matter will now be sought in the District of Oregon.

24. Based on the foregoing, I am of the opinion that there is probable cause to believe that on January 6, 2010, Joseph Hedlund Johnson, who was traveling as a passenger on Hawaiian Airlines Flight 39, an aircraft in the special aircraft jurisdiction of

the United States, intimidated an aircraft flight crew member, namely the Captain, and caused the flight to return to its origin, thereby interfering with the performance of his duties, in violation of Title 49 United States Code, Section 46504.


MICHEAL J. TORPHY
Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence this 8th day of
January, 2010.


UNITED STATES MAGISTRATE JUDGE

Everyone at Hawaiian Airlines cares about the experience we provide you. Please let us know if we lived up to your expectations. Feel free to use the space below or call us toll-free at 888-246-8526 or from Oahu at 838-5300 Monday through Friday between 8:00 a.m. - 4:30 p.m. HST.

Comments

Is there any portion of your experience with Hawaiian Airlines that you would like to specifically comment on? (check all that apply)

- Making your reservations
- Check-in
- Boarding
- While in flight
- Upon arrival

Please use the space below to give us any feedback - positive or negative - that might help us improve our service to you, our valued customer.

I thought I was going to die, we were so high up, I thought to myself, I hope we don't crash, and burn or worse yet, landing in the ocean, Hung through it, only to be eaten by sharks, or worse yet, end up on some place like Gilligan's Island, stranded, or worse yet, be eaten by a Tribe of headhunters, speaking of headhunters, why do they just eat outsiders and not the family members, strange, and what if the plane flipped apart in mid-flight and we plummeted to earth, lands on Gilligan's Island and then lived through it, and the only woman there was Mrs. Thurston Howell III? So Maryanne (my favorite) no gender, just love it! If it were just her, I think I'd opt, for the sharks, maybe the headhunters!

Please tell us: Flight#: 29

From: Portland

Class of Service: First Class Coach

Contact Information

If you would like us to respond to your comment, please provide your contact information below.

Name: Joe Johnson

Address: PO Box # 10461

City: Salem State: OR Zip Code: 97305

Phone Number: [redacted]

Hawaiian Miles#: _____

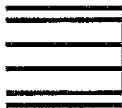
Thank you for flying Hawaiian Airlines and providing us your comments. Please seal and give this form, when completed, to your flight attendant or drop it off at any Hawaiian Airlines ticket counter. Or simply drop it in a mailbox.

To: Maui

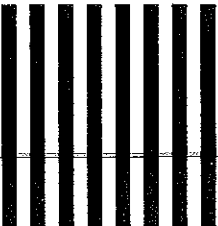


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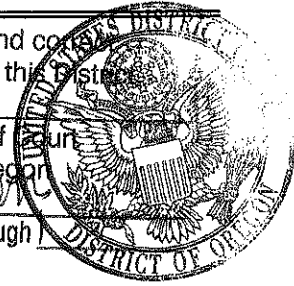
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UNITED STATES DISTRICT COURT

for the
District of Oregon

Certified to be a true and correct copy of original filed in this District
Dated 1/8/2010
Mary L. Moran, Clerk of Court
US District Court of Oregon
By Deputy Clerk [Signature]
Pages _____ Through _____



United States of America
v.
JOSEPH HEDLUND JOHNSON
DOB: 02/19/53

Case No. 10-mj-401

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
(name of person to be arrested) Joseph Hedlund Johnson,
who is accused of an offense or violation based on the following document filed with the court:

- Indictment Superseding Indictment Information Superseding Information Complaint
- Probation Violation Petition Supervised Release Violation Petition Violation Notice Order of the Court

This offense is briefly described as follows:
interference with a flight crew member or flight attendant.

Date: 01/08/2010



[Signature]
Issuing officer's signature

City and state: Portland, Oregon

Donald C. Ashmanskas, U.S. Magistrate Judge
Printed name and title

Return

This warrant was received on (date) _____, and the person was arrested on (date) _____
at (city and state) _____.

Date: _____
Arresting officer's signature

Printed name and title