

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

ARTHUR DAVID FISCHER

Defendant(s)

Case No.

3:16-mj-337

FILED CHARLOTTE, NC

AUG 29 2016

US District Court Western District of NC

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 August 25, 2016 in the county of Mecklenburg in the Western District of North Carolina, the defendant(s) violated:

Code Section

49 U.S. Code § 46506, incorporating D.C. Code § 22-1312.

Offense Description

It is a violation of 49 USC § 46506 (2) for a person, in public and on an aircraft in the special aircraft jurisdiction of the United States, to make an obscene or indecent exposure of his or her genitalia or to engage in masturbation if such conduct would violate D.C. Code § 22-1312. The special aircraft jurisdiction of the United States includes a civil aircraft of the United States in flight.

This criminal complaint is based on these facts:

See attached Affidavit incorporated by reference herein

Continued on the attached sheet.

Eric Wishtoff signature

Complainant's signature

Eric Wishtoff, Task Force Office, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date:

8/29/2016

David S. Cayer signature

Judge's signature

City and state:

Charlotte, North Carolina

David S. Cayer, U.S. Magistrate Judge


Printed name and title

Affidavit in Support of a Criminal Complaint

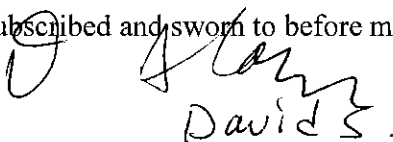
1. I am a Task Force Officer (TFO) with the Federal Bureau of Investigation (FBI), and have been since May 2016. I am currently assigned to the Joint Terrorism Task Force (JTTF) in the Charlotte Division of the FBI. In my current capacity, I am assigned to investigate federal crimes affecting the nation's security. Also within my current assignment, I am the Airport Liaison Agent whose duties include investigating federal crimes that occur aboard aircrafts and affecting the airports and flight crews. Previously, as a Federal Air Marshal, I would evaluate and discern suspicious activity, conduct surveillance and perform investigations in order to protect the flying public and crew from criminal and terrorist violence. My training has continued through numerous in-service training seminars and through hands on experience.
2. Based on the following, I believe that probable cause exists to show that ARTHUR DAVID FISCHER ("FISCHER"), date of birth December 18, 1975, has violated District of Columbia Code, section 22-1312, which prohibits obscene or indecent exposure and masturbation in public and is a federal criminal offense under Title 49, United States Code, Section 46506 (assaults and other offenses against passengers) when such acts are committed within the special aircraft jurisdiction of the United States. This belief is based on facts known to me or relayed to me by other law enforcement officers and airline corporate security investigators with direct or indirect knowledge of the facts. Because this affidavit is for the sole purpose of securing probable cause and the issuance of a criminal complaint, it includes only those facts necessary to establish probable cause.
3. On August 25, 2016, American Airlines flight number 1775 departed 01:14pm EST from New York City, NY (LGA) to Charlotte, NC (CLT) and arrived at 02:33pm EST. Shortly after takeoff and while the aircraft was in flight over the United States, FISCHER, seated in window seat 27A, pulled the window shade down and put a vest over his lap. A person known to me as J.P. (hereinafter referred to as Witness#1) was sitting in the same row, aisle seat 27C. Witness#1 slept for some of the flight and when she awoke during the descent, she observed FISCHER put his right leg up on the middle seat, slide down in his seat and start rubbing his leg on the outside of his pants. Witness#1 saw FISCHER put his hands in his pants and expose his fully erect penis.
4. The adult son of Witness#1 (hereinafter referred to as Witness#2), sitting in the same row as FISCHER across the aisle in seat 27D, switched seats with Witness#1 after FISCHER exposed his penis and saw FISCHER rubbing his right leg on the outside of his pants.
5. J.M. (hereinafter referred to as Witness#3) was seated in same row, opposite window seat 27F from FISCHER. Witness#3 observed, shortly after takeoff, FISCHER tugging on the outside of his pants near the groin area. FISCHER then put a vest on his lap and moved

his legs and hand around. FISHER took out a tissue from a small black bag and put it under the vest, after which the movement stopped. Subsequently, during the initial descent into the Charlotte area Witness#3 observed FISCHER rubbing what appeared to be his erect penis with his hand on the outside of the right leg of his sweat pants. Witness #3 stated that it was obvious what Fischer was doing—i.e., masturbating—and was making no effort to conceal it.

6. FISCHER stated during his interview with the FBI that he got an erection after takeoff and covered himself with his vest. FISCHER proceeded to use wipes taken from a black bag to wipe his groin area because he “smelled bad.” FISCHER also stated that his penis could have been exposed and seen by someone else as felt a “breeze on it.” FISCHER knew that Witness#1 was uncomfortable with his actions by her demeanor and her switching seats.
7. For the reasons stated herein, I submit there is probable cause to believe that FISCHER violated Section 46506 of Title 49, United States Code and District of Columbia Code, Section 22-1312, within the special aircraft jurisdiction of the United States by exposing his penis and masturbating at such a time and place—i.e., seated in the cabin of a commercial aircraft in flight—where any reasonable man would know that his acts would be open to the observation of others.


Eric Wisthoff
Task Force Officer, Federal Bureau of Investigation

Subscribed and sworn to before me, this 29 day, of August, 2016


The Honorable Cayer
United States Magistrate Judge