

AFFIDAVIT IN SUPPORT OF AN APPLICATION
FOR A CRIMINAL COMPLAINT

I, Jason D. Costello, being duly sworn, depose and state as follows:

INTRODUCTION

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since July 2004. I am assigned to the Boston Division of the FBI and serve as the Airport Liaison Agent Coordinator at Boston Logan International Airport (BOS) where I investigate violations of federal law in the airport environment and onboard aircraft. In my capacity as an Airport Liaison Agent, I work with other law enforcement agencies at BOS, including the Massachusetts State Police (MSP). I also have received training in the investigation of sexual assault and related crimes.

2. I make this affidavit in support of a criminal complaint charging Donald Edward ROBINSON (“ROBINSON”), YOB 1946, with violating Title 49, United States Code, Section 45606(2) (application of certain criminal laws to acts on aircraft) and District of Columbia (D.C.) Code Section 22-1312 (lewd, indecent, or obscene acts).

3. I am aware that, under Title 49, United States Code, Section 46501(2)(A), Special Aircraft Jurisdiction of the United States applies to any civil aircraft of the United States while the aircraft is in flight. An “aircraft in flight” is defined in Section 46501(1)(A) of that title as an aircraft from the moment all external doors are closed following boarding through the moment when one external door is opened to allow passengers to leave the aircraft.

4. Title 49, United States Code, Section 46506(2) states, in pertinent part, “[a]n individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that ... if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code Section 22-1112), shall be fined under Title 18, imprisoned under section 9 of

the Act, or both.”

5. I am also aware that District of Columbia Code Section 22-1312, which had previously been codified at Section 22-1112, makes it unlawful for “a person, in public, to make an obscene or indecent exposure of his or her genitalia or anus, to engage in masturbation, or to engage in a sexual act as defined in Section 22-3001(8).” I am also aware that violation of this section is a misdemeanor punishable by imprisonment up to 90 days. *Id.*

PROBABLE CAUSE

6. On or about April 8, 2022, while onboard United Airlines Flight 1663 enroute from Newark, New Jersey, to Boston, Massachusetts, ROBINSON engaged in masturbation and exposed his penis to the 21-year-old female passenger seated next to him (the “Victim”). ROBINSON then placed his hand on top of the Victim’s thigh, without the consent of the victim. ROBINSON was seated in a window seat on the left side of the aircraft, and the Victim was seated in the middle seat adjacent to ROBINSON’s seat. This was reported to United Airlines personnel, who then notified MSP once the aircraft had arrived at BOS gate B30 and passengers were in the process of deplaning. MSP detectives responded to gate B30 and interviewed the Victim, the female passenger seated in the aisle seat next to the Victim (“Witness 1”), the flight attendant to whom the Victim initially reported the incident (“Witness 2”), and the gate agent to whom the Victim next reported the incident (“Witness 3”). ROBINSON was no longer in the gate area when MSP arrived.¹

7. The Victim was interviewed by MSP Detectives on scene, and provided the following information at that time:

¹ The identities of the Victim, Witness 1, Witness 2, and Witness 3 are known to the government and anonymized here to protect their identities.

a. The Victim stated that within a few minutes of the flight departing Newark she noticed that the man seated next to her—later identified as ROBINSON—kept moving around. The Victim tried to sleep by putting her head on her tray table but felt ROBINSON continue moving around. The Victim became very uncomfortable and did not want to turn and look directly at ROBINSON to see what he was doing. Instead, the Victim used her iPhone to take a short video of ROBINSON to see what he was doing. The Victim then watched the video and saw that ROBINSON was manipulating his penis through his pants.

b. A short time later, the Victim looked over and saw that ROBINSON had exposed his penis. The Victim stated that she was in shock and did not know what to do. She looked away and covered her head and body with her jacket. The victim did her best to ignore ROBINSON and what he was doing but continued to feel ROBINSON move around.

c. About five minutes before landing, ROBINSON placed his hand on the top of the Victim's thigh. The Victim asked ROBINSON why he was touching her. ROBINSON withdrew his hand and looked out the window.

d. The Victim then got the attention of the adult female passenger seated to her right in the aisle seat (Witness 1). The Victim typed out a message on her iPhone and displayed it to Witness 1; it stated words to the effect of, "Hi, This man assaulted me and touched my leg and is masturbating." Witness 1 whispered and asked the Victim if she was going to tell the flight crew, and the Victim whispered yes. During the deplaning process, the Victim notified a flight attendant (Witness 2) of what happened. The Victim then deplaned and spoke with a gate agent (Witness 3) about what happened.

8. On April 9, 2022, I spoke with the Victim. The Victim confirmed the account she

provided to law enforcement on scene, and provided some additional details and clarification, as follows:

a. The Victim stated that, a few minutes after taking the video of ROBINSON, the victim heard the noise of a zipper, which caused her to glance over and see that ROBINSON had exposed his penis. ROBINSON had pulled his belt up and out of the way and removed his penis from his pants through the open zipper. The Victim described being in shock, being afraid that ROBINSON would touch her, and not knowing what to do. She looked away, covered her head and body with her jacket, turned her music up, and did her best to ignore ROBINSON.

b. About five minutes before landing the Victim felt her jacket, which was still covering her, lift up, and felt something warm on top of her thigh. The Victim uncovered her head and saw that ROBINSON had lifted up her jacket and placed his hand on top of her thigh, causing the Victim to rebuke ROBINSON.

c. Upon arrival, the passengers deplaned in the usual manner, except that as she was about to exit the aircraft, the Victim got out of line and notified a flight attendant (Witness 2) of what happened. Witness 1 remained with the Victim. ROBINSON hurried past them and proceeded quickly up the jet bridge. The Victim then deplaned and spoke with a gate agent (Witness 3) about what happened. The Victim described ROBINSON as wearing a blue zip up sweater, black dress pants, and carrying a black book bag or briefcase.

9. The Victim provided the video she took of ROBINSON to MSP detectives, who in turn provided it to me. I have viewed the video. It is approximately 24 seconds long. The video frame captures the lap (lower hip to above knee), partial left arm, and hands of what appears to be

a man. The man appears to be wearing gray or black pants and a blue or blue-green long sleeve shirt or sweater. The video is shot from the perspective of the lap of the middle seat passenger facing the window to the left of the middle seat. The man's right hand appears stationary and resting on his right thigh. With his left hand, the man is observed fondling his crotch area in a manner consistent with holding or manipulating his penis.

10. MSP detectives on scene interviewed Witness 1. Witness 1 confirmed that the Victim showed her a message on the Victim's phone indicating that the man seated next to her had touched her and was masturbating. Witness 1 had not observed these acts, as she was seated on the aisle. The Victim showed the video, described above, to Witness 1.

11. MSP detectives on scene interviewed Witness 2. Witness 2 told detectives that, during the deplaning process, the Victim approached her and reported that the man seated next to her during the flight had touched the Victim's inner thigh,² exposed his genitals to the Victim, and proceeded to masturbate in view of the Victim. The Victim had captured video of the incident, which she showed to Witness 2. Witness 2 only viewed the very beginning of the video that the Victim showed her. The Victim was unable to point ROBINSON out to Witness 2 due to the volume of passengers deplaning. Witness 2 directed the Victim to deplane and report the matter to a gate agent (Witness 3).

12. MSP detectives on scene interviewed Witness 3. Witness 3 told detectives that the Victim approached her and reported that the man seated next to her during the flight had touched the Victim's inner thigh, had masturbated, and had exposed his genitals to the Victim. Witness 3 asked the Victim if she saw ROBINSON in the gate area; ROBINSON could not be located.

² As indicated in Paragraph 8(b), the Victim reported to me that ROBINSON placed his hand on the top of her thigh.

Witness 3 then called MSP to report the incident. Witness 3 provided MSP detectives with a printout of ROBINSON's passenger record, which they subsequently provided to me.

13. ROBINSON's passenger record includes his name, date of birth (XX/XX/1946), and a home address in Bonita Springs, Florida. The passenger record shows that he originated his trip at Cleveland Hopkins International Airport (CLE) aboard United Airlines Flight 737, and connected onto United Airlines Flight 1663 at Newark Liberty International Airport (EWR) prior to arriving at BOS. On Flight 1663 to BOS, ROBINSON was assigned to the seat next to the Victim. United Airlines further advised that ROBINSON had checked two pieces of luggage.

14. I have been provided with information from the Florida Department of Motor Vehicles, which shows that ROBINSON is the holder of a Florida driver's license that lists his date of birth as XX/XX/1946, and his residence in Bonita Springs, Florida, which match the United Airlines information. I have viewed ROBINSON's Florida driver's license photograph and am familiar with his appearance.

15. I reviewed closed circuit television security video held by the Massachusetts Port Authority, which operates BOS. In the video, a man I recognize as ROBINSON, dressed in a blue sweater and gray or black pants, deplaned Flight 1663 at gate B30. Video shows that soon thereafter ROBINSON exited the secure area of the terminal and proceeded down an escalator to the baggage carousel level. Once on the escalator, ROBINSON looked back in the direction from which he came. Once at baggage level, ROBINSON turned to head towards baggage carousel 7 and, as he did so, he looked up the escalator in the direction from which he came. Once at baggage carousel 7, ROBINSON quickly removed two suitcases from the baggage carousel and joined a group of two women and two men who were already there. The group then exited the terminal and took a shuttle bus to the Massachusetts Bay Transit Authority Blue and Silver Line station.

CONCLUSION

16. Based on all of the foregoing, I submit that there is probable cause to believe that, on or about April 8, 2022, ROBINSON, being an individual on an aircraft in the special aircraft jurisdiction of the United States while onboard United Airlines Flight 1663 enroute from Newark, New Jersey, to Boston, Massachusetts, did violate Title 49, United States Code, Section 46506(2), application of certain criminal laws to acts on aircraft, and District of Columbia Code Section 22-1312, lewd, indecent, or obscene acts.



Jason D. Costello
Special Agent, FBI

Sworn to before me by telephone pursuant to Fed. R. Crim. P. 4.1 on this 9th day of April 2022.

Marianne B. Bowler

Hon. Marianne B. Bowler
United States Magistrate Judge

