

AO 91 (Rev. 5/85) Criminal Complaint

United States District Court

EASTERN DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA

FILED IN OPEN COURT?
ON 9-18-06
Clerk
US District Court
Eastern District of NC

v.
CARL WARREN PERSING (1)
DAWN ELIZABETH SEWELL (2)

CRIMINAL COMPLAINT

CASE NUMBER: 5:06-m-540

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about September 15, 2006 in the

Special Aircraft Jurisdiction of the United States defendant(s) did, (Track Statutory Language of Offense)

assault or intimidate a flight attendant of the aircraft, interfered with the performance of the duties of the attendant, and lessened the ability of the member or attendant to perform those duties; and did aid and abet another

in violation of Title(s) 49 and 18 United States Code, Section(s) 46504 and 2, respectively

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:
Official Title

Please see the attached Affidavit of Special Agent Michael Sutton, which is hereby incorporated by reference.

Continued on the attached sheet and made a part hereof:

Yes No

Michael Sutton
Signature of Complainant

Sworn to before me and subscribed in my presence,

**Michael Sutton, Special Agent
Federal Bureau of Investigation**

Date 9/18/06 at Raleigh, North Carolina
City and State

WILLIAM A. WEBB, UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

William A. Webb
Signature of Judicial Officer

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

AFFIDAVIT

I, Michael Sutton, hereafter designated as Affiant, having being duly sworn according to law, state and depose as follows:

(1) I have been a Special Agent with the Federal Bureau of Investigation (FBI) since 2001. I am currently assigned to the Raleigh-Durham Area Safe Streets and Gang Task Force. Prior to my employment with the FBI, I served with the Durham County, North Carolina Sheriff's Office for five years, and with the Durham, North Carolina Police Department for six years. My investigative assignments have included a variety of counterterrorism, white collar, organized crime, violent crime, public corruption, crimes against children and fugitive matters.

(2) This Affidavit is made in support of arrest warrants for CARL WARREN PERSING and DAWN ELIZABETH SEWELL. The information contained herein is based on my personal investigative efforts, interviews of witnesses by other agents, and investigations conducted by law enforcement officers from the Raleigh-Durham International Police

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Department and the Transportation Security Administration.

(3) Because the purpose of this Affidavit is to set forth only the facts necessary to establish probable cause for the issuance of arrest warrants, I have not described all of the facts and circumstances of which I am aware. In addition, when I rely on statements of others, such statements are set forth in part and in substance unless otherwise indicated.

(4) On September 15, 2006, PERSING and SEWELL boarded a Southwest Airlines (SWA) plane in Los Angeles, California, bound for Phoenix, Arizona, with their ultimate destination being the Raleigh-Durham International Airport (RDU). They were among the last passengers to board and sat in rows 17 and 16 respectively. During the flight, PERSING was served one alcoholic beverage.

(5) Upon arriving in Phoenix, passengers who were continuing to RDU were asked to remain on the plane. As SWA does not have assigned passenger seating, PERSING and SEWELL moved to the front of the plane in adjacent seats in row 2 or 3. While on the ground in Phoenix, PERSING and SEWELL were observed by Flight Attendant 1 (FA-1), Flight Attendant 2 (FA-2) and other passengers, embracing, kissing and acting in a manner that made other passengers uncomfortable. PERSING was observed nuzzling or


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kissing SEWELL on the neck, and around the collarbone in the vicinity of her breast. PERSING was also observed with his face pressed against SEWELL's vaginal area. During these actions, SEWELL was observed smiling.

(6) Upon witnessing this activity, FA-1, while PERSING had his face pressed against SEWELL's vaginal area, instructed PERSING and SEWELL to end this activity. SEWELL nodded to FA-1 and the two complied.

(7) While in flight to RDU, PERSING and SEWELL re-initiated the previously described actions that made other passengers uncomfortable. FA-1 again approached PERSING and SEWELL and instructed them to end this behavior. Observed by a passenger in a nearby seat, PERSING pointed and shook his finger at FA-1 and said, "I'm going to give you one warning to get out of my face!" PERSING repeated this statement to FA-1. FA-1 informed PERSING and SEWELL that he would be reporting their behavior to the Captain.

(8) During the complimentary beverage service, FA-1 asked PERSING and SEWELL if they would care for a beverage, at which time PERSING requested an alcoholic beverage. Due to his previous behavior, FA-1 informed PERSING that he would not be served any alcohol. PERSING responded by stating, "there is going to be a serious

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confrontation between you and me." SEWELL then requested an alcoholic beverage. FA-1 also declined to serve her. She objected stating she had not had any alcohol. PERSING than stated to FA-1, "I'm 44 years old and you're just a punk." FA-1 received these comments, his previous comments and subsequent comments as a threat of physical violence.

(9) Later in the flight, SEWELL approached FA-1 in the galley area and wanted to know if anyone would be waiting for them when they arrived at RDU. FA-1 informed SEWELL that SWA and law enforcement officials would be waiting. SEWELL told FA-1, that if law enforcement was waiting, PERSING "would not go quietly."

(10) During the flight, FA-2 played a game to entertain the passengers. The game involved first guessing the combined ages of the crew. PERSING shouted, "FA-1 is twelve!" The second stage of the game was to guess the individual ages of the crew. PERSING shouted, "FA-1 is fourteen!" FA-2 thought PERSING was doing this to bait or taunt FA-1.

(11) Having previously been notified that he would not be served alcohol, each time FA-1 would pass his row PERSING would request an alcoholic beverage. FA-1 continued to inform PERSING that he would not be served alcohol, and at times, ignored his requests. This occurred


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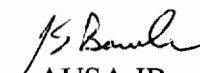
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on at least five occasions. FA-1 ultimately informed PERSING to stop requesting alcohol as he was impeding FA-1 in completing his other duties.

(12) After being denied alcohol by FA-1, SEWELL went to the rear of the aircraft to complain and sought service of alcohol from FA-2 and Flight Attendant 3 (FA-3). During one of these contacts, SEWELL stated that she worked for an attorney and it was law that the flight crew had to serve them alcohol if requested. FA-3 informed her that SWA reserved the right to deny service of alcohol to anyone they deemed appropriate. SEWELL appeared not accept this information and continued to request to be served alcohol. Neither FA-2 nor FA-3 provided alcohol to SEWELL.

(13) SEWELL complained to FA-2 that FA-1 said that SEWELL and PERSING were "all over each other." SEWELL told FA-2 that this was not true. FA-2 informed SEWELL that she personally witnessed SEWELL and PERSING "all over each other," and these actions made other passengers uncomfortable. SEWELL's only response was "oh."

(14) Due to the concerns of the flight crew, the Captain decided to activate the fasten seat belt sign in order to keep PERSING and SEWELL in their seats and prevent any further confrontation. During the decent into RDU, while the fasten seat belt sign was activated, SEWELL


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approached FA-1 in the galley area and asked for a piece of paper. FA-1 instructed SEWELL to immediately return to her seat as the fasten seat belt sign was activated. Ignoring the instructions of the flight crew member, she bypassed her seat and went directly to the rear of the aircraft.

(15) As FA-1 was passing PERSING and SEWELL's seat, PERSING stated, "you and I are gonna have some serious confrontation when we get off this plane." FA-1 asked PERSING to repeat his comment and he again stated, "you and I are gonna have some serious confrontation when we get off this plane."

(16) As a result of PERSING and SEWELL's actions and comments, which led FA-1 to believe a physical confrontation may ensue, FA-1 was diverted and delayed from other duties to monitor their activities. FA-2 had been on approximately twenty flights with FA-1 over approximately the past two weeks. At no time during any of those previous flights was FA-1 ever behind on his responsibilities. As a result of the actions of PERSING and SEWELL, FA-2 observed that FA-1 was delayed in completing his in-flight responsibilities. As a result of interviews of FA-1 by law enforcement officials upon arriving at RDU, the subsequent SWA flight by the flight crew was delayed.


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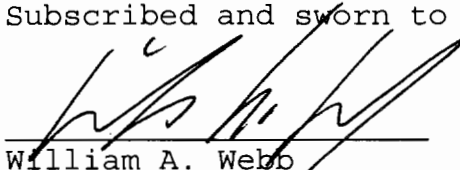
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(17) Upon information and belief, Affiant avers that on September 15, 2006, CARL WARREN PERSING and DAWN ELIZABETH SEWELL, in the special aircraft jurisdiction of the United States, did assault or intimidate a flight attendant of the aircraft, interfered with and lessened the ability of the attendant to perform his duties; and did aid and abet another, in violation Title 49, United States Code (USC) 46504, and Title 18, USC 2. FURTHER AFFIANT SAYETH NOT.



Michael Sutton
Special Agent
Federal Bureau of Investigation
Raleigh, North Carolina

Subscribed and sworn to me this 18 day of September, 2006.



William A. Webb
United States Magistrate Judge


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