

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID ALAN BURK,

Defendant.

No. 3:23-mj-231-KFR

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, KATIE YARBOROUGH, having been first duly sworn, do hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a criminal complaint and arrest warrant pursuant to Federal Rules of Criminal Procedure 3 and 4. As explained more fully below, I have probable cause to believe that DAVID ALAN BURK (herein after referred to as “BURK”) has committed the following federal criminal offenses:

Count 1 – Interference with flight crew members and attendants: On or about April 10, 2023, within the special aircraft jurisdiction of the United States, DAVID ALAN BURK did interfere with the flight crew members in violation of 49 U.S.C. § 46504.

Count 2 – Statements or entries generally: On or about April 10, 2023, within the special aircraft jurisdiction of the United States, DAVID ALAN BURK did knowingly and willfully make materially false statements, all of which is in violation of 18 U.S.C. § 1001.

2. The statements in this affidavit are based in part on information provided to me by other law enforcement officers, police reports, my own investigation of this matter, and my

training and experience. Because this affidavit is being submitted for the limited purpose of establishing probable cause to support a complaint and securing an arrest warrant, I have not included each and every fact known to me concerning this investigation.

3. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI). I have been a SA with the FBI for approximately four years. I am currently assigned to the Violent Crime squad in the FBI Anchorage Field Office. During my time with the FBI, I have led and participated in investigations involving violent crimes, threats, robbery, fraud, and drugs. I also investigate violations of federal law occurring in the Special Aircraft Jurisdiction of the United States.

FACTS ESTABLISHING PROBABLE CAUSE

4. On April 10, 2023, at around 9:10 p.m. (AKDT), FBI Operations Center in the Anchorage Field Office received a phone call from Anchorage Airport Police Dispatch, who reported an incident which was called in from Delta Airlines. Delta flight crew members on Delta flight 517 were reporting interference with a flight attendant, T.C., by a passenger, BURK, who had made sexual advances toward T.C.

5. Delta flight 517 departed from Minneapolis, Minnesota, and was scheduled to arrive at 9:20 p.m.(AKDT) in Anchorage, Alaska. After the flight landed at the Ted Stevens Anchorage International Airport, an FBI agent and Airport Police Officers interviewed the flight crew members, including the victim, and BURK.

6. The flight attendant and victim, T.C., was working the first-class passenger area, where BURK was sitting in seat 5A. Typically, after first-class passengers have boarded the aircraft and before takeoff, they will receive any drinks from the flight attendant

working the first-class area that they've pre-ordered. T.C. stated he ran out of time and was not able to give BURK his pre-ordered alcoholic beverage, which was red wine. BURK got upset with T.C. because he did not receive his red wine before departure. T.C. stated this interaction occurred when he was taking the first-class passengers' meal orders before takeoff. When he was asking BURK for his meal order, BURK seemed fine but then got "snippy" with T.C. saying, "Well, that's why I like you guys. Why can't I get my pre-departure drink?" T.C. apologized to BURK and told him they had just received the catering for the flight and did not have time due to having to put the catering away.

7. T.C. made it a priority to give BURK his red wine after takeoff as soon as the flight attendants were allowed to get up. T.C. brought over the glass of red wine to BURK, setting it down and immediately walking away. Later, T.C. was collecting the trays from the finished meals which he had delivered earlier to each first-class passenger. When T.C. tried to pick up BURK's meal tray, BURK reached out with his hand instead to give T.C. a handshake. T.C. shook his hand and then retrieved the meal tray.

8. About ten minutes later, BURK got up from his seat and went to the front of the plane to use the restroom, but stopped first in the galley where T.C. was located. BURK stood next to T.C. and told him, "Oh, you're so beautiful." T.C. smiled and politely said, "Thank you." BURK then asked, "Can I have a kiss?" T.C. replied, "No, thank you" to which BURK then said, "Okay, well on the neck then." While the plane was in flight, BURK then grabbed T.C.'s neck, pulling him toward BURK, and purposefully kissed T.C.'s neck. T.C. stated he was "very uncomfortable and caught off-guard" by what BURK had just done. After kissing T.C.'s neck, BURK started walking to the restroom next to the



galley. As BURK started for the door of the restroom, he looked behind him over his shoulder at T.C. and said, “I have one of those Delta cards for you.” T.C. quickly replied, “Okay” and walked away heading to the back of the plane.

9. Delta cards, T.C. described, are cards that Delta gives to its frequent flyers to give to Delta flight attendants who the frequent flyers believe deserve to be recognized and rewarded for their good work. The flight attendants can then cash in these earned cards for things like a higher-flying status when they themselves fly with Delta as a passenger.

10. T.C. stated that when BURK had kissed him, he felt uncomfortable, awkward, and thought, “What the hell just happened?” T.C. stated BURK’s remark about T.C. being beautiful seemed like a genuine compliment, but then BURK’s actions and demeanor escalated so quickly. T.C. never gave verbal consent or implicit consent to BURK to allow him to touch or kiss T.C., or make him think it was okay to do so.

11. T.C. went straight to the back of the plane and told the other flight attendants what had happened. T.C. asked the other flight attendants to go to the front of the plane because BURK was still in the front galley area. T.C. told them he did not want to return to the front until BURK had returned to his seat.

12. Once T.C. saw BURK return to his seat, he walked back to the front galley area where the other flight attendants were located. The flight attendants told T.C. that BURK had just broken the tray and plate containing the captain of the plane’s meal, which had not been served yet. T.C. then contacted the captain, J.S., to inform him of the entire incident with BURK.

13. When T.C. delivered a different meal to J.S., he informed T.C. he had already called



Airport Dispatch about the incident. Under security protocols given to the flight crew, J.S. told T.C. that this was a security threat, and J.S. had to report what BURK had done. J.S. told T.C. that under the protocols, T.C. would need to switch with another flight attendant and no longer work the first-class passenger area for the rest of the flight.

14. In J.S.'s statement to investigators, he said, "[T.C.] felt uncomfortable by the situation and requested to be moved to the back of the plane to put distance between he and [BURK]. [J.S.] agreed." J.S. referred to the security chapter of Delta's flight operations manual. J.S. states the situation fit the definition of a "level 2 security threat" and contacted Delta.

15. T.C. stated one of the other flight attendants did not feel comfortable enough to be around BURK and work the first-class area for T.C. She was worried BURK might do something to her, and she did not want to deal with anything involving him by herself. Instead, one of the other female flight attendants switched with T.C. and worked the front area for him.

16. Later in the flight, when BURK had gotten up to use the restroom again, the female flight attendant working the front went to T.C. and told him BURK was "wasted." T.C. stated BURK had approximately three alcoholic beverages, all red wine. T.C. had given BURK one, and the other flight attendant had given him two. The flight attendant told T.C. that after consuming the drinks, BURK slept the rest of the flight.

17. An Anchorage-based Delta supervisor confirmed with Airport PD that BURK had been given three alcoholic beverages, all red wine, during this flight.

18. BURK was detained by Airport Police after the flight landed. After reading BURK

his Miranda Rights, BURK agreed to answer questions. BURK stated he never went to the restroom on this flight. BURK recalled using the restroom on the Dallas-Fort Worth to Minneapolis leg of the flight, but did not use the restroom once on the leg from Minneapolis to Anchorage. BURK confirmed that T.C. was the flight attendant who worked his area. BURK stated he was only given one glass of red wine the entire flight, which was given to him by T.C. at the beginning of the flight. BURK stated that after T.C. gave him the wine, he stayed in his seat and slept the rest of the flight. The next time BURK was awake was when he had woken up to the plane landing in Anchorage. BURK never saw or interacted with any other flight attendant the entire flight, except for T.C.

19. BURK stated the only time he interacted with T.C. was when he ordered the one glass of wine. When asked if BURK kissed T.C., BURK stated, “[He] never kissed anybody.” When asked if BURK recalled breaking a plate on a tray filled with food, BURK stated, “I didn’t even eat on that flight.” When it was clarified that the plate of food and tray that was broken was near or on the cart located next to the front restroom, BURK replied, “I don’t recall going to the bathroom at all on that flight.”

20. BURK told Airport PD and FBI he was traveling to Alaska because a friend of his who lived in Alaska died last week, and he was planning to go to his friend’s house.

21. BURK refused to be administered a Breath Alcohol Content test (BrAC) when asked by an Airport Police Officer. BURK stated he only had one glass of wine the entire flight and that there was “nothing wrong” with having one glass of wine on a flight. BURK then stated he did, however, have “a lot” of alcohol before getting on the Anchorage flight.

22. BURK asked if he was being arrested for “something else” and not for this incident

with the flight. When BURK was asked to clarify what he meant by “something else,” BURK stated, “Does this have anything to do with why I’m in Alaska?” FBI repeated back what BURK had originally told them, which was BURK being in Alaska because of his friend’s funeral. BURK then replied that he was not here for the funeral, but because he is the executor of his recently deceased friend’s estate. BURK then asked, “Do you guys know who I am?” Airport PD and FBI denied knowing anything about BURK except for his name and the information about the incident on the flight. BURK made no other statements about his accusation for arresting him for reasons other than the incident on the flight.

23. I arrested BURK pursuant to my authority under 18 U.S.C. § 3052. BURK was then transported to Anchorage Correctional Complex (ACC).

CONCLUSION

24. I have probable cause to believe that BURK has committed the offenses described in the complaint. Accordingly, I ask the court to issue a warrant for BURK’s arrest in accordance with Federal Rule of Criminal Procedure 4(a).

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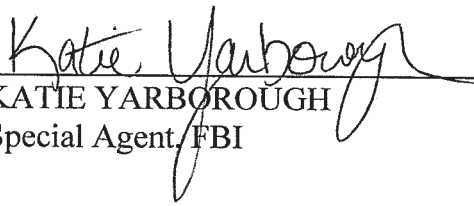
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RESPECTFULLY SUBMITTED,


KATIE YARBOROUGH
Special Agent, FBI

Subscribed and sworn pursuant to Fed. R.
Crim. P. 4.1 and 41(d)(3) on this ___ day
of April 12, 2023.


HON KYLE F. REARDON
United States Magistrate Judge
District of Alaska
Anchorage, Alaska