

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, HEATHER WATSON LUKE, being duly sworn, hereby declare:

**INTRODUCTION**

1. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI") and have been so employed for five years and seven months. As of November 2007, I have been assigned to the Domestic Terrorism Squad ("DT") in Santa Ana, California (CA). As a collateral duty, I investigate violations of Federal law, which occur within the airport environment and on board aircraft. Title 49 United States (U.S.) Code, Section 46501 establishes the Special Aircraft/Maritime Jurisdiction of the U.S. and gives the federal government jurisdiction in all criminal matters occurring on any civil aircraft of the U.S. while in flight, regardless of departure or arrival location.

2. Prior to my DT assignment in Santa Ana, I was assigned to the Los Angeles International Airport Office of the FBI, where I investigated violations of Federal law, which also occurred within the airport environment and on board aircraft. As an FBI SA, I have participated in numerous investigations involving violations of federal law, and, as part of these investigations, I have conducted interviews of suspects, witnesses, and victims, participated in the arrest of subjects, and have worked a variety of investigations.

**PURPOSE OF AFFIDAVIT**

3. This affidavit is made in made in support of an application for a criminal complaint against **JAMES DALTON BRATCHER** (also know as "Jaime Dalton Bratcher," "Jamie Bratcher," "Jody Dalton Bratcher," and "Jody Bratcher," with dates of birth to include June 23, 1974, June 24, 1974, and September 09, 1975) for the following offense: knowingly engaging in and causing sexual contact with another person without that person's permission, while in the special maritime and territorial jurisdiction of the United States, including the special aircraft jurisdiction of the United States, in violation of Title 18, United States Code, Section 2244(b) and Title 49, United States Code, Section 46506(1).

4. The facts set forth in this affidavit are based on my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses. Because the purpose of this affidavit is to set forth only the facts necessary to establish probable cause to issue the requested warrants, I have not attempted to describe all of the facts and circumstances that I or other law enforcement personnel have learned during the course of this investigation, which is ongoing.

**PROBABLE CAUSE**

5. I received word of a reported sexual assault occurring on Continental Airlines flight 787 (a night flight), from Newark,

New Jersey (NJ) to Orange County, CA on or about Friday, March 5, 2010. On March 7, 2010, I interviewed a woman with the initials M.Q. ("Victim #1"), a passenger on board the subject Continental Flight 787. From this interview, I learned the following:

a. Victim #1 was in NJ for business. On March 05, 2010, Victim #1 was returning to Orange County, CA, where she resides. Victim #1 was seated in row 23, seat C (an aisle seat, on the left side, facing the cockpit). Victim #1 fell asleep approximately two hours prior to the flight landing at the John Wayne Airport. Approximately one hour prior to landing, Victim #1 was suddenly awakened because it felt as if someone (unbeknownst to her) used their entire hand to grab her right breast. The touch lasted for less than five seconds. Victim #1 woke up and turned to see who had touched her breast. Victim #1 looked around observed one person in the aisle and noticed the two females seated next to her were sleeping. She described the person in the aisle to be a tall white male in a dark colored tracksuit, walking towards the rear galley of the aircraft.

b. Victim #1 was very "shocked" by this event and her "heart was racing."

c. Victim #1 attempted to return to sleep, but felt very "vulnerable, as if someone had invaded her space." Victim #1 sat in her seat, closed her eyes, but was unable to sleep. About 20 minutes prior to the flight landing, Victim #1 felt her right breast being grabbed again. Victim #1 jumped up and said loudly,

"Oh my god!" Victim #1 turned around and saw the same white male, who she described as being approximately 6'2" in height, approximately 200 pounds, early to mid 30s, dirty blond hair, a goatee, rough looking skin, possibly scarred face, wearing a navy blue track suit with white stripes down the sides, walking past her towards the rear galley of the aircraft.

d. When Victim #1 said, "Oh my god," she woke the two females seated next to her. Victim #1 immediately rang the call-button for the flight attendant. Within a few seconds Victim #1 made contact with the only male flight attendant on board the aircraft. Victim #1 reported her breast had been touched on two separate occasions by a male passenger. Victim #1 was able to identify the male passenger, subsequently identified as BRATCHER, who Victim #1 pointed out to the male flight attendant.

e. When Victim #1 was speaking to the male flight attendant, another female passenger, later identified as a person with the initials E.C., overheard Victim #1 talking about what had happened. Victim #2 asked Victim #1 if a man touched her breast. Victim #2 informed Victim #1 someone grabbed her breast while she was sleeping in row 17, seat C.

f. The male flight attendant apologized to Victim #1 and informed her he was going to talk to the subject. The male flight attendant also informed Victim #1 he notified the flight deck and Continental Airlines' Security.

g. Victim #1's heart was racing for approximately the last hour of the flight because she was fearful about her breast being touched by this unknown man.

h. As Victim #1 was preparing to deplane, BRATCHER looked back toward her. Victim #1 ducked behind the seat because she was worried about BRATCHER knowing her identity.

i. Victim #1 met Victim #2 after they deplaned. Both of them met with Sanny Baroudy ("Baroudy"), a supervisor for Continental Airlines. They reported to Baroudy what had happened to them on the flight. The Orange County Sheriff's Department was subsequently notified and a deputy responded to take a report.

6. On March 6, 2010, I telephonically interviewed a woman with the initials E.C. ("Victim #2"). On March 7, 2010, I interviewed Victim #2 at the FBI office in Santa Ana, CA. From both interviews, I learned the following:

a. On March 5, 2010, Victim #2 was returning to Orange County, CA, from New York, NY on the subject Continental Flight 787, after a brief trip to New York. Victim #2 was seated in row 17, seat C (the aisle seat, on the left side, facing the cockpit).

b. After take-off, Victim #2 was talking to the passengers seated across from her about their careers, her new apartment, and about her new employer. While she was talking with these passengers, Victim #2 observed a white male (seated in row 16,

seat D, later identified as BRATCHER, look back and stare at her several times. This made Victim #2 uncomfortable because she discussed a lot of personal information about herself with the passengers seated across from her and Victim #2 realized the man seated in 16D may have overheard this information.

c. After the meal service, Victim #2 studied and then fell asleep. Approximately two hours prior to landing, Victim #2 was suddenly awakened by an "impact" to her right breast. Victim #2 woke up and realized someone had grabbed her right breast. Victim #2 described the impact as a quick grab, but it felt as if someone's entire hand covered her right breast.

d. Victim #2 immediately looked around to see who touched her. Victim #2 observed a tall white male, wearing dark clothing, with a travel pillow around his neck. This man was walking away from Victim #2, towards the restroom at the back of the aircraft. The couple seated next to Victim #2 were sleeping. Victim #2 was groggy and was trying to discern if what happened was reality.

e. Approximately 45 minutes prior to landing, Victim #2 walked towards the back of the aircraft to get some water. Victim #2 heard a female passenger (namely, Victim #1), whom she had never met before, talking to a male flight attendant. Victim #2 thought the female said something about being touched. Victim #2 interrupted their conversation and asked, "Did someone touch you, too?"

f. Victim #1 pointed at BRATCHER, who was wearing a navy blue track suit with white stripes down the sides, and said, "It was him." Victim #1 recognized this man as the person seated in 16D. She also realized he was the same guy she observed walking away from her, after her right breast was grabbed.

g. After a few minutes, Victim #2 returned to her seat. The aircraft landed at the John Wayne Airport without further incident. While the aircraft was taxiing to the gate, BRATCHER exited his seat so he could access his bag in the overhead compartment. The flight attendant made an announcement for BRATCHER to take his seat.

h. As the passengers were deplaning, BRATCHER offered to hold a couple's baby. This couple was seated behind him. Victim #2 had met this couple during the flight, and told the wife, a woman with the initials J.J., to not let BRATCHER hold her baby. Victim #2 told J.J. that BRATCHER touched her breast and another female's breast during the flight. J.J. then told Victim #2, BRATCHER had grabbed her foot and held on to it, while she was seated behind him, during the flight.

i. As Victim #2 exited the aircraft, she asked the flight crew what was going to happen. The flight crew informed a Victim #2 a female from their security was going to meet her. Victim #2 and Victim #1 met with Sanny Baroudy ("Baroudy"), a supervisor for Continental Airlines when they exited the plane. The two females informed Baroudy what happened to them on the flight.

The Orange County Sheriff's Department was subsequently notified and a deputy responded to take a report.

7. On March 7, 2010, FBI Task Force Officer John Kirby ("Kirby") and I contacted BRATCHER at the John Wayne Airport. BRATCHER was there to take a flight back to New York. he was wearing a nylon, navy-blue track-suit that matched the description of what BRATCHER was wearing on the subject Flight 787. BRATCHER was advised of his Miranda Rights and agreed to be interviewed after signing the FBI's "Waiver of Rights" form. BRATCHER informed Kirby and I of the of the following:

a. BRATCHER recalled being on Continental flight 787 from Newark, New Jersey to Orange County, CA, on March 5, 2010. Prior to boarding the flight, BRATCHER drank two beers and one shot of liquor. BRATCHER had approximately two more beers during the flight, but claimed he was not intoxicated. Later in the interview, BRATCHER said he had a few cups of coffee to "sober-up" because his fiance was picking him up from the airport.

b. BRATCHER has a difficult time giving direct answer to the questions asked of him.

c. BRATCHER claimed he spent a good portion of his flight talking with the flight attendants.

d. I asked BRATCHER if there was turbulence on the flight. Throughout the interview, BRATCHER changed his statement as to whether there was or was not turbulence during the flight.

e. BRATCHER stated, "This is bad because I don't touch peoples breast." He also claimed he does not have "sexual deviancy." BRATCHER denied grabbing anyone's breasts. He could not understand why anyone would make this type of claim against him.

f. At one point in the interview, BRATCHER said he had not been drinking. I reminded him he already admitted to having a total five drinks since he arrived at the airport in Newark. BRATCHER stated, "He is 100 percent competent all the time, absolutely, and he maintains focus on that."

g. Approximately halfway though the interview, I asked BRATCHER if he would be willing to take a polygraph test. He immediately answered, "Absolutely, absolutely." After being asked to take the polygraph, BRATCHER's demeanor changed. He immediately began breathing heavily and became very agitated, so much so, Kirby told BRATCHER to relax three times.

h. During the interview, BRATCHER referred to himself as being a "dickhead." BRATCHER then claimed he did not do anything wrong, even though he agreed it was a good question why someone would accuse him of such a thing.

i. According to BRATCHER, he got on the plane, sat down, talked to guy next to him, drank a few drinks, he was not unruly, and he did not exhibit dickhead behavior (even though he previously stated he was a dickhead). BRATCHER also claimed he

was a "busy body fucker and to sit on a plane for six hours would kill him."

j. BRATCHER stated he does not do stuff like that (referring to the allegations). BRATCHER also stated, "If anyone were to ever say that about me, I would feel disgraced and be harmed by it, so all I can say about it (BRATCHER did not finish his thought)."

k. Kirby and I allowed BRATCHER make a few phone calls to family members. BRATCHER told his family member he was being accused of "grabbing tits" on the plane Friday night. BRATCHER told his fiancé, "We're going to see if this doesn't just magically go away."

l. At one point during the interview, BRATCHER referred to Kirby and me as "fuckers."

m. BRATCHER told Kirby and me, "Well look, I can just tell you right now, were are going through the whole polygraph, all that bullshit, there ain't no way I'm gonna fail some shit like that." BRATCHER asked questions about who interpreted the polygraph. I informed him a specially trained FBI agent would conduct and review the test. I stepped out of the office to attempt to schedule the polygraph, meanwhile, BRATCHER decided he no longer wanted to take the polygraph. When I was out of the office, BRATCHER decided to invoke his fourth amendment rights. Kirby and I did not ask any further questions to BRATCHER related to the crime.

n. As I placed BRATCHER into the vehicle, so he could be transported to the Santa Ana Jail, he made a spontaneous statement to me which was, "I am not a pervert."

8. On March 8, 2010, while I was transporting BRATCHER with SA Luis Altamirano and SA Neah Gibson, BRATCHER made spontaneous statements to the following effect: He said he was thinking all night about the March 5th flight. He said he does not think there is any way that he could have touched them (i.e., Victims #1 and #2) or fallen on to them due to turbulence. He also said he researched the statute to try to determine what he was facing in terms of a potential sentence. He noted that regardless of what happens this is going to be bad for him.

**CONCLUSION**

9. Based on the foregoing, I respectfully submit that there is probable cause to believe BRATCHER, while in the special maritime and territorial jurisdiction of the United States, including the special aircraft jurisdiction of the United States, knowingly engaged in and caused sexual contact with another

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person without that person's permission, in violation of Title 18, United States Code, Section 2244(b) and Title 49, United States Code, Section 46506(1).

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HEATHER WATSON LUKE  
FBI, Special Agent

Subscribed and sworn to before me  
on this \_\_\_\_th day of March 2010.

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MARC L. GOLDMAN  
UNITED STATES MAGISTRATE JUDGE