

United States District Court

DISTRICT OF COLORADO

UNITED STATES OF AMERICA

v.

EZRA JAMES WALLACE

CRIMINAL COMPLAINT

CASE NUMBER: 08-mj-1187-KLM

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 August 1, 2008, EZRA JAMES WALLACE, the defendant herein, in the State and District of Colorado and on an aircraft in the special aircraft jurisdiction of the United States, namely Southwest Airlines Flight 3938, committed an act that if committed in the special maritime and territorial jurisdiction of the United States, as defined in Section 7 of Title 18, would violate Title 18, United States Code, Section 113(a)(5) by then and there assaulting a juvenile, whose initials are "A.G."

in violation of Title 49 United States Code, Section 46506(1). I further state that I am a Special Agent for the Federal Bureau of Investigation and that this complaint is based on the following facts:

See Affidavit attached hereto and herein incorporated by reference

Continued on the attached sheet and made a part hereof: [X] Yes [ ] No

[Signature]
Signature of Complainant - Joel Nishida, FBI

Sworn to before me, and subscribed in my presence

10/6/08 at Denver, Colorado

Date City and State

KRISTEN L. MIX
U.S. MAGISTRATE JUDGE
DISTRICT OF COLORADO

[Signature]
Signature of Judicial Officer

Name and Title of Judicial Officer

## AFFIDAVIT

My name is Joel E. Nishida and I am a Special Agent with the Denver Division of the Federal Bureau of Investigation (FBI). I have been a Special Agent with the FBI since 1988. Within the Denver Division, I am responsible for the investigation of crimes that occur onboard aircraft.

On August 7, 2008, a Child Adolescent Forensic Interviewer at the Rocky Mountain Safe Streets Task Force in Denver, Colorado, interviewed a juvenile female whose initials are "A.G.". A.G. reported that she and her brother and sister were flying onboard Southwest Airlines on August 1, 2008 from San Diego, California to Denver, Colorado. My investigation learned that this flight was Southwest Airlines Flight 3938, a commercial flight in the United States. A.G.'s birth date is March 15, 1992.

A.G. stated that she was seated on the airline next to an unknown male in his mid to late twenties. She described the male as having a scruffy unshaven look, blond hair, and blue eyes. She stated he wore a black shirt with ripped sleeves and camouflage pants. She stated that the man was carrying a skateboard with new green wheels. During the flight, A.G. was seated in the middle seat, the man sat in the window seat, and A.G.'s sister, also a juvenile, sat in the aisle seat in the same row. A.G. reported that prior to departure, the male began talking to her sister. A.G. reported that the man took out a silver camera and attempted to take pictures of A.G.'s sister. A.G. reported that her sister covered her face to keep the man from photographing her. During the flight, A.G. stated that the man removed his skateboard from under the seat and attempted to talk to her sister about it. The male stated that he liked A.G.'s sister because she had "attitude". A.G. stated that during the flight, she tried to avoid the male sitting next to her. She stated that after she got a magazine, she observed the male take some white athletic tape from his backpack.

A.G. stated that the man said something to her and then grabbed her hands and tied them together with a pre-torn strip of the athletic tape. She demonstrated that he used a figure 8 pattern to tie her hands together. A.G. stated that “she got scared and began to freak out”. A.G. stated that she asked the man what he was doing and he responded with what she described as “a creepy laugh”. A.G. stated that she turned her back to shield her sister from the man because she was worried about her sister. A.G. stated that the tape was tightly wrapped around her hands and that her sister was unable to tear it off. A.G. turned towards her brother, who was seated in the row behind her to get his help in removing the tape. Eventually A.G.’s sister was able to tear the tape with her teeth and remove it from A.G.’s wrists. The tape, after being removed, left a red mark on A.G.’s hand. A.G. then stated that the male tried to tape A.G.’s sister’s hand to A.G.’s hand.

A.G. stated that after she removed the tape from her hand, the unknown male threw tape at her. A flight crew member saw this and removed A.G. and her sister to join their brother seated in a different row.

A.G.’s brother, whose initials are Z.G., was also interviewed. Z.G. stated that he was seated on the Southwest Airlines flight behind his two sisters. He stated that during the flight, he observed several camera flashes going off. His sister later told him that the guy next to her took photographs of their younger sister. Z.G. stated that later his sister, A.G., put her hands between the seats and he observed that they were taped together. A.G. asked her brother if he could untie her. Z.G. tried to take the tape off of her hands. Z.G. stated he stopped when he thought he was hurting her while removing the tape. A.G. later told Z.G. that their sister seated next to A.G. was able to rip the tape off using her teeth.

On August 12, 2008, I spoke with Christopher Schiff, a flight attendant with Southwest

Airlines. Mr. Schiff reported that he was a flight attendant on Southwest Airlines Flight 3938. He reported that he observed a male passenger seated in or near row 18 with two female juveniles seated next to him in the middle and aisle seats. Mr. Schiff observed that during the snack service, he observed the male passenger wrap a white hospital type tape around the right wrist of the older female juvenile. Mr. Schiff stated that the juvenile was reading a magazine at the time and did not see her reaction because he could not see her face. When Mr. Schiff learned that the two juveniles were not traveling in the company of the male who had wrapped the girl's wrist with the tape, he immediately moved the two female juveniles to a different seat. He stated that the two children appeared happy to have been moved and both juvenile females thanked him. Mr. Schiff and another flight attendant escorted the two female juveniles from the airplane when the airplane when the plane landed in Denver.

Through a review of passenger manifests and other investigative materials, I was able to conclude that the person seated next to A.G. was EZRA JAMES WALLACE, age 29, of Denver, Colorado. I obtained a photograph of EZRA JAMES WALLACE and placed it with five other photographs of Caucasian males. I showed this photographic array on August 11, 2008 to A.G. A.G. identified the photograph of EZRA JAMES WALLACE from the group of photographs as the man who tied her hands on the Southwest Airlines flight.

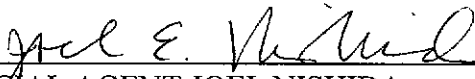
On August 13, 2008, I contacted EZRA JAMES WALLACE at his residence in Denver, Colorado. I identified myself and advised him that he was not under arrest and was not in custody. Mr. WALLACE agreed to speak with me. Among other statements made by Mr. WALLACE, he admitted that he was on the Southwest Airlines flight flying from San Diego, California to Denver, Colorado on August 1, 2008. Mr. WALLACE stated that during the day of

August 1, 2008, he had spent time with a friend in California. He stated that during the day, he estimated that he drank approximately a half-pint of vodka. He stated that just prior to entering the airport terminal in San Diego, he drank the final two shots of vodka from the pint bottle. Mr. WALLACE stated that he sat in a window seat next to two female passengers. He stated that they were sisters. Mr. WALLACE remembered that the girls stated that they were from Colorado and that the girl seated next to him was 16 years old.

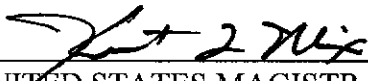
Mr. WALLACE stated that he showed the two female passengers photographs he had taken with his digital camera while in California. He stated that he then took photographs of the two female passengers seated next to him, along with random shots around the passenger cabin. He stated that the younger of the two female passengers raised her arm to shield her face when he took pictures of her. He stated that upon returning home, he downloaded the photographs of his trip onto his home computer. Mr. WALLACE provided copies of these photos to me. Several of the photographs show A.G.'s sister attempting to cover her face while being photographed.

Mr. WALLACE stated that he kept a roll of white athletic tape in the rear pocket in his backpack. He stated that during the flight he had brought his backpack on board as carry-on baggage, along with his skateboard. Mr. WALLACE admitted taking the tape from his backpack and initially stated that he could not remember why he took the tape out. He subsequently admitted to using the tape to tape both female passengers' wrists together. He stated that the two female passengers were then reseated out of his row. In a written statement, Mr. WALLACE wrote that he vaguely remembered taping the girls' wrists together who were seated beside him. He stated that "it was all in good fun". He stated that he was "drunk and blurry" and it was hard to remember details.

At the time of the taping of the wrists of A.G. and her sister, the Southwest Airlines flight was an aircraft in flight and therefore, within the special aircraft jurisdiction of the United States.

  
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SPECIAL AGENT JOEL NISHIDA  
FEDERAL BUREAU OF INVESTIGATION

Sworn to and subscribed before me this 6<sup>th</sup> day of October, 2008.

  
\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO

**KRISTEN L. MIX  
U.S. MAGISTRATE JUDGE  
DISTRICT OF COLORADO**

(Rev. 04/07)

DATE:

DEFENDANT: EZRA JAMES WALLACE

YOB: 1979

ADDRESS (CITY/STATE): Denver, Colorado

COMPLAINT FILED?  YES  NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: \_\_\_\_\_  
IF NO, PROCEED TO "OFFENSE" SECTION

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT?  YES  NO

IF NO, A NEW WARRANT IS REQUIRED

OFFENSE: Assault on an aircraft, 49 U.S.C. § 46506(1)

LOCATION OF OFFENSE (COUNTY/STATE):

PENALTY: NMT 6 months imprisonment, \$5,000 fine, or both. \$10.00 special assessment.

AGENT: Joel Nishisa  
Federal Bureau of Investigation

AUTHORIZED BY: James R. Allison  
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

five days or less  over five days  other

THE GOVERNMENT

will seek detention in this case  will **not** seek detention in this case

reserves its position until review of Pre-trial report

The statutory presumption of detention is or is **not** applicable to this defendant. **(Circle one)**

OCDETF CASE:  Yes  No