

AO 91 (Rev. 02/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Arizona

United States of America )

v. )

Antonio Sherrodd McGarity )

*Defendant* )

Case No.

22-3085 MJ

DOW  
4-2-22

CRIMINAL COMPLAINT

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 April 2, 2022, in the special aircraft jurisdiction of the United States, defendant Antonio Sherrodd McGarity, while on an aircraft, publicly and indecently exposed his genitalia while on board Southwest Airlines flight 3814, enroute from Seattle, Washington, to Phoenix, Arizona, in violation of Title 49, United States Code, § 46506(2), application of certain criminal laws to acts on aircraft, and District of Columbia (DC) Code § 22-1312, lewd, indecent, or obscene acts.

I further state that I am a Special Agent with Federal Bureau of Investigation (FBI) and that this complaint is based on the following facts:

**See Attached Statement of Probable Cause Incorporated By Reference Herein.**

AUTHORIZED BY: AUSA Kevin C. Hakala *KCH*

Continued on the attached sheet.

*Robert G. Byrne*

Complainant's signature

Robert G. Byrne, Special Agent, FBI

Printed name and title

Sworn to telephonically before me.

Date: April 3, 2022

*Michael T. Morrissey*

Judge's signature

City and state: Phoenix, Arizona

Hon. Michael T. Morrissey, U.S. Magistrate Judge

Printed name and title

## STATEMENT OF PROBABLE CAUSE

I, Robert G. Byrne, being duly sworn, hereby depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed for 25 years. I am assigned to the Phoenix Division of the FBI and serve as the Airport Liaison Agent Coordinator at Phoenix Sky Harbor International Airport (PHX) where I investigate violations of Federal law which occur within the airport environment and onboard aircraft. In my capacity as Airport Liaison Agent, I work with other law enforcement agencies at PHX, including the Phoenix Police Department.
2. This statement of probable cause supports a criminal complaint against ANTONIO SHERRODD MCGARITY (“MCGARITY”) for violation of Title 49, United States Code, Section 46506(2), application of certain criminal laws to acts on aircraft and District of Columbia (D.C.) Code Sections 22-1312, lewd, indecent, or obscene acts.
3. Special Aircraft Jurisdiction of the United States applies to any civil aircraft of the United States while the aircraft is in flight under Title 49, United States Code, Section 46501(2)(A). An “aircraft in flight” is defined in Section 46501(1)(A), as “an aircraft from the moment all external doors are closed following boarding – (A) 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 ... (2) 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. 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). . . . A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500, imprisoned for not more than 90 days, or both.”

6. On or about April 2, 2022, while onboard Southwest Airlines Flight 3814, enroute from Seattle, Washington, to Phoenix, Arizona, MCGARITY exposed his penis and masturbated while in view of the female passenger sitting next to him. MCGARITY was seated in seat 11F and the female witness was seated in seat 11E. Shortly after takeoff, and while the aircraft was in the air, MCGARITY exposed his penis by pulling down his pants and shorts and began masturbating.


7. The female witness captured pictures of MCGARITY with his hand on his erect penis, which I reviewed during the course of my investigation. At some point during the flight, MCGARITY fell asleep and the female witness got up and advised the flight crew about the incident. She was moved to another seat on the aircraft.

8. After Southwest Airlines Flight 3814 landed in Phoenix, Arizona, the female witness sitting next to MCGARITY was interviewed by Phoenix Police Officers. She advised MCGARITY exposed his penis by pulling down his pants and shorts and proceeded to masturbate during the first hour of the flight, starting shortly after takeoff. MCGARITY masturbated with his exposed penis in view of the female passenger on four separate occasions, using both his left and right hands. She suspected that MCGARITY ejaculated because he licked a white substance from his fingers.

9. MCGARITY was interviewed by Federal Bureau Investigation Special Agents. MCGARITY admitted to law enforcement that he had masturbated during his flight from Seattle, Washington, to

Phoenix, Arizona, and that he had an orgasm. MCGARITY knew the female witness sitting next to him was aware he was masturbating and could see his exposed penis. MCGARITY was aware that the female witness sitting next to him used her telephone camera to capture MCGARITY masturbating. MCGARITY advised he asked the female witness if she minded if he masturbates. According to MCGARITY, the female witness put her hands in the air and said, "it really doesn't matter". MCGARITY said he thought it was kind of kinky. MCGARITY did not think the female witness was uncomfortable with him masturbating.

10. For these reasons, your affiant submits that there is probable cause to believe that MCGARITY, while in the special aircraft jurisdiction of the United States, on or about April 2, 2022, while onboard Southwest Airlines Flight 3814, enroute from Seattle, Washington, to Phoenix, Arizona, did violate Title 49, United States Code, Section 46506(2), application of certain criminal laws to acts on aircraft and District of Columbia Code Sections 22-1312, lewd, indecent, or obscene acts.



Robert G. Byrne, Special Agent  
Federal Bureau of Investigation

Sworn to telephonically and subscribed before me this 3rd day of April, 2022.



THE HONORABLE MICHAEL T. MORRISSEY  
United States Magistrate Judge