

AO 91 (Rev. 02/09) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the  
District of ColoradoUnited States of America  
v.  
GREGORY THOMAS BURNS

Case No. 10-mj-104-MEH

*Defendant*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

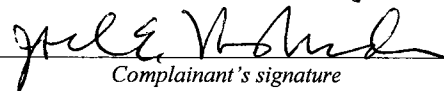
On or about the date of 01/23/2010 in the county of Denver in the State and District of  
Colorado, the defendant violated 49 U. S. C. § 46504

, an offense described as follows:

On United Airlines Flight 223, an aircraft in the special aircraft jurisdiction of the United States, Gregory Thomas Burns, by intimidating a flight crew member and flight attendant of the aircraft, interfered with the performance of the duties of the flight crew member and flight attendant and lessened the ability of the flight crew member and flight attendant to perform those duties.

This criminal complaint is based on these facts:

See Attached Affidavit, which is hereby incorporated by reference as if fully restated herein.

☒ Continued on the attached sheet.*Complainant's signature*

Joel E. Nishida, Special Agent, FBI

*Printed name and title*

Sworn to before me and signed in my presence.

Date: 1/26/2010 11:22 AM*Judge's signature*

City and state: \_\_\_\_\_

Michael E. Hegarty  
United States Magistrate Judge  
Denver, Colorado*Printed name and title*

## **AFFIDAVIT IN SUPPORT OF FEDERAL CRIMINAL COMPLAINT**

I, Joel E. Nishida, being duly sworn according to law, depose and say that the facts stated in this affidavit are true and correct to the best of my knowledge, information, and belief.

I am a Special Agent of the Federal Bureau of Investigation (FBI) assigned to the Denver Office. I have been employed as a Special Agent of the FBI since 1988. My duties include investigating alleged crimes that occur on aircraft within the Special Aircraft Jurisdiction of the United States. In my capacity as a Special Agent of the FBI, I have learned of the following facts:

On January 23, 2010, dispatch for the Denver Police Department at the Denver International Airport notified me that United Airlines flight 223 was being diverted to the Denver International Airport due to a disruptive passenger who tried to open an entrance/exit door onboard the aircraft during flight. Flight 223 was scheduled to fly from Dulles, Virginia to Las Vegas, Nevada. Other Special Agents of the FBI and I responded to the Denver International Airport. From interviews and written statements, I believe there is probable cause that passenger Gregory Thomas Burns, by intimidating a flight crew member and flight attendant of Flight 223, interfered with the performance of those individuals' duties and lessened those individuals' ability to perform their duties, in violation of Title 49, United States Code, Section 46504. My investigation since January 23, 2010, revealed the following:

Michael Brooks was the Captain onboard flight 223. During his interview, he reported that the flight was uneventful until it was 20 minutes east of Denver. The aircraft

was at 30,000 feet when a light/chime indicator alerted in the cockpit. The alert indicated that door one left, the main passenger boarding door, was being opened. While going through standard operating procedures for this kind of alert, he found that the cabin pressure of the aircraft was normal. About 20 seconds later, he received a call from the purser with initials T.M.P. T.M.P. reported that passenger Burns attempted to open the aircraft's door. T.M.P. further reported that Burns was restrained by the passengers. Brooks declared an in-flight emergency and diverted flight 223 to the Denver International Airport. From the time the in-flight emergency was called, Brooks and his First Officer were able to land flight 223 in 18 minutes. After arriving in Denver, Brooks had United Airlines maintenance personnel check door one left for any damage or safety issues that resulted from Burns' attempt to open it. Brooks decided to divert flight 223 to Denver because he was concerned about the safety of his aircraft, crew, and passengers. Brooks believed Burns interfered with his crew's ability to perform their duties.

Passenger Earl Stafford was interviewed. Stafford sat in seat 3B onboard flight 223. Stafford reported that during the flight to Denver, he noticed passenger Burns come up from Economy class and attempted to open the front left door of the aircraft. When the door did not open, Burns went to the cockpit door and attempted to gain access to the cockpit. At the time, Burns carried two satchels which concerned Stafford because he thought Burns could be attempting to blow up the aircraft. While Burns was attempting to breach the cockpit, Stafford left his seat to restrain Burns. Stafford grabbed Burns from the back and pulled both of Burns' arms behind him. Other passengers then assisted Stafford

in restraining Burns. After Burns was restrained, he was searched for weapons and/or explosives with negative results.

T.M.P. was interviewed. She was the purser onboard flight 223. As T.M.P. left the forward lavatory, she saw passenger Stafford with his arms around passenger Burns. She heard Stafford call out for others to help him. At the same time, she noticed a female passenger seated in seat 1C crying. T.M.P. asked what happened. Someone said Burns tried to open the door. T.M.P. looked at the front left door of the aircraft and noticed the door's operating handle was up and the cabin pressure light was on which indicated the door was losing pressure. T.M.P. tried to pull the operating handle down but it seemed jammed. T.M.P. reported the incident to the cockpit. T.M.P. kept her hand on the operating handle. It locked down as the aircraft descended to Denver. T.M.P. had the female passengers seated in First Class move to Coach and had male passengers seated in Coach move into their empty seats. T.M.P. wanted as many male passengers she could get seated near Burns. For her safety, T.M.P. obtained a carrier door which could be used as a shield. T.M.P. felt threatened by Burns because he tried to open the aircraft's door. As the aircraft descended to Denver, T.M.P. was not focused on her duties to include safety compliance checks.

G.P. was a flight attendant onboard flight 223. G.P. first encountered Burns just after take-off from Dulles. Burns left his seat to use the lavatory while the fasten seatbelt light was still on. Burns returned to his seat after being asked by G.P. G.P. warned Burns that he was violating Federal Aviation Administration regulations by leaving his seat while the fasten seatbelt light was on. A couple minutes later, Burns again left his seat to use the

lavatory. G.P. commented to another flight attendant that he would hate to have to deal with Burns if he caused problems. G.P. is six feet tall and he thought Burns was bigger than him. Later during the flight, G.P. was in the rear galley when a passenger said something was going on up front. G.P. looked towards Burns' seat and saw that it was empty. G.P. assisted Stafford in restraining Burns to seat 2B. When G.P. heard that Burns tried to open the aircraft's door, he found purser T.M.P. holding onto the door's operating handle. G.P. also noticed that the cabin pressure light was on. This light is normally off during flight. G.P. retrieved two wine bottles from the galley. He gave one to the passenger seated in seat 2A and G.P. held on to the other one for protection. In addition, G.P. placed a garbage bin in the aisle next to seat 2B to block Burns' access to the aisle. G.P. helped purser T.M.P. secure the door's operating handle. G.P. searched Burns' carry-on baggage and found no weapons or threats. G.P. also felt threatened by Burns because he tried to open the aircraft's door during flight and he did not follow rules and regulations. As the crew quickly prepared to land in Denver, G.P. was unable to conduct thorough safety compliance checks of his cabin.

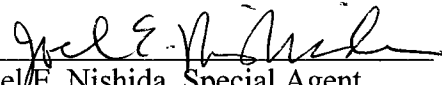
Arthur Thomm was also interviewed. Thomm was a passenger onboard flight 223. After he used the rear lavatory, he noticed a commotion in the First Class area of the aircraft. Another passenger was struggling/fighting with Burns. Thomm ran up to help. He grabbed Burns by the neck and pulled Burn's arm around his back to restrain him. While being restrained, Burns yelled, "I'm getting off this plane" and "Do you know who you're fucking with."


Gregory Thomas Burns, age 33, from New York, was interviewed at the Airport Bureau of the Denver Police Department. After waiving his Miranda Rights, Burns provided the following information:

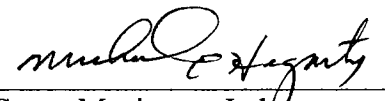
Burns was a passenger onboard flight 223. He was traveling to California to visit his parents. While at the Dulles International Airport, Burns drank three Guinness beers and one Sapphire gin at an airport bar. Because his flight was delayed due to mechanical problems, Burns returned to the bar and drank another Guinness beer and a double Sapphire gin. While onboard flight 223, Burns drank two additional gin drinks. He also took two Lorazepan pills which are prescription drugs that act like a tranquilizer. After his second gin drink, Burns thought he was on the wrong aircraft. He did not know why he had such a belief. He got up from his seat and attempted to open the closed front left door of the aircraft. At the time, Burns thought his flight was still on the ground. A lot of passengers then jumped him. While in college, around 2006 or 2007, Burns was diagnosed with a “schizo-effect” disorder. He suffers from auditory, visual, and tactile hallucinations. Burns did not believe the incident he caused on flight 223 had anything to do with hallucinations. He was not ordered or told to open the aircraft’s door. Burns believed his drinking alcoholic beverages to an excess caused him to try to open the aircraft’s door mid-flight. Burns is under the care of a doctor in New York. He takes five different prescription drugs daily. Burns last took all of his prescription drugs the day before on January 22, 2010. On January 23, 2010, he only took his Lorazepan pills. Burns did not take his other prescription drugs because he was too busy with his travels. In the past, Burns missed taking his medication for a day and had no problems. Burns did not believe being off his

medications this date caused the incident onboard flight 223. Burns is aware that he was not supposed to consume alcoholic beverages while taking his prescription drugs. During his interview, Burns had no problems answering questions. He answered questions with appropriate answers.

United Airlines flight 223 was an Airbus A320 aircraft with United States Aircraft Registration Number N449UA. On January 23, 2010, it was a United States aircraft in flight and was thus an aircraft in the Special Aircraft Jurisdiction of the United States.

  
Joel E. Nishida, Special Agent  
Federal Bureau of Investigation

Sworn to and subscribed before me this 26<sup>th</sup> day of January, 200~~9~~<sup>10</sup> 

  
United States Magistrate Judge  
United States District Court  
District of Colorado

DEFENDANT: Gregory Thomas Burns

YOB: 1976

ADDRESS: ~~Glen Allen, Virginia~~ Sydney Center, New York

COMPLAINT  
FILED? ☒ X ☐ Yes ☐ No

If Yes, MAGISTRATE CASE NUMBER \_\_\_\_\_

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? ☐ Yes ☒ X ☐ No  
If No, a new warrant is required

OFFENSE(S): Count One: Interference with Flight Crew and Attendants, 49 U.S.C. § 46504.

LOCATION OF  
OFFENSE: Denver County, Colorado

PENALTY: Count One: NMT 20 years imprisonment, \$250,000 fine, or both; NMT 3 years supervised release; \$100 Special Assessment.

AGENT: Joel E. Nishida  
Special Agent, FBI

AUTHORIZED  
BY: Ryan T. Bergsieker  
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

☒ X five days or less

THE GOVERNMENT

☒ X will seek detention in this case

The statutory presumption of detention is **not** applicable to this defendant.

OCDETF CASE: ☐ Yes ☒ X No