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Action in Propria Persona

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RODNEY F. STICH,)
) SECOND AMENDED
Plaintiff,) CIVIL ACTION
vs) No. C 740982 RHS
)
UNITED STATES OF AMERICA,)
FEDERAL AVIATION ADMINISTRATION,)
ALEXANDER P. BUTTERFIELD, as)
Administrator of Federal Aviation)
Administration,)
)
Defendants.)

JURISDICTION

1. Jurisdiction is conferred upon this Court by 28 U S C 1331,1361, 2201, 1343 (1) (2) (4), and 42 U S C 1985 (1), this being an action for damages against the Administrator of, and the Federal Aviation Administration, who individually and in concert with other employees and agents of the United States Government, have obstructed the air safety investigative, reporting and corrective responsibilities of the plaintiff, adversely affecting the plaintiff and the nation's air safety; and had harassed and intimidated the plaintiff to the point he was forced to leave the employment of the defendants. This is also an action in mandamus for reinstatement of petitioner-plaintiff with back pay to his position as airline safety inspector.

PARTIES

2. Plaintiff RODNEY E. STICH is a citizen of the United States and is a resident of Contra Costa County, State of California, within the northern judicial district. From 1961 through 1967 he was employed as an air carrier operations inspector for the Federal Aviation Agency/Administration (FAA). His job description and responsibilities required detailed inspections and evaluations of air carrier safety activities, determining compliance with the specifics and the intent of government air safety laws, rules and regulations, issued under authority of the Federal Aviation Act.

3. Defendants Administrator and Federal Aviation Administration (hereinafter called FAA) are charged by law with, inter alia, promoting air safety, in compliance with the Federal Aviation Act.

In this capacity, the FAA is responsible for Issuing rules, regulations and directives as authorized and required by the Act, and is required to insure compliance by the air carriers. It employs and directs trained and qualified personnel to determine for the FAA whether these requirements are being complied with, whether an adequate level of safety exists, and other acts to insure maximum level of safety. Upon the strict compliance by the air carriers, and the FAA with the Federal air safety laws and requirements, the lives of air travelers depend.

THE FACTS

4. On or about October 1962, plaintiff, an employee of the FAA, was assigned to the Denver Air Carrier District Office as a DC-8 air carrier operations inspector. His air safety responsibilities were with several air carriers, but primarily-with United Air Lines. His job responsibilities were to make inspections, evaluations, conduct flight checks, submit reports, and other functions associated with air safety.

5. Plaintiff discovered as part of his official duties, massive violations of important Federal ah safety requirements and disregard or cover-up for these infractions by the FAA. The plaintiff discovered that these irregularities were of the type that would cause or allow air carrier crashes to occur, and were juxtapositioned with actual crashes.

6. Between 1962 through 1965 plaintiff observed, verified and reported to his superiors within the FAA numerous unsafe and illegal conditions in United Airline's air carrier operations. Many of these violations of FAA safety standards, rules and regulations unnecessarily and recklessly jeopardized the lives and safety of crewmembers, passengers and persons on the ground, among others, and were closely related and juxtapositioned with at least two major air disasters. The irregularities undoubtedly played a part in other crashes experienced by United Air Lines.

7. Plaintiff was ordered, pressured, harassed, and suffered other abuse and threats from his superiors when he reported the numerous safety irregularities, as he was required to do by his lawful responsibilities.

8. Among the safety irregularities and violations of Federal safety laws, rules and regulations the plaintiff officially reported into the FAA records, were:

A. Unsafe and unacceptable performance by United Air Lines check airmen and crewmembers.

B. Gross violations by United Air Lines with the important emergency evacuation training of crewmembers, the importance and consequences of nonperformance identified with passenger fatalities.

c. Training program irregularities at United Air Lines in violation of laws, rules and regulations issued under authority of the Federal Aviation Act, and below acceptable standards of the industry.

D. Serious irregularities of United Air Lines training records, including those shown in a sequestered FAA report dated just prior to the horrendous United Air Lines DC-8 crash into New York City, the contents of which would more accurately explain more than any other fact, why that great air disaster occurred;

E. United Air Lines refusal to allow a legally required inspection of its training records by plaintiff in his performance of safety responsibilities; records showing major noncompliance with emergency evacuation training requirements of the FAA. The sequestering of the report associated with the DC-8 crash into New York City was in violation of the Federal Aviation Act, removed from the official records and public scrutiny major factual information that would show the probable cause of that major disaster, still unknown to the public today. Public exposure of this sequestered FAA report showing material fraud by the FAA, would start anew the statute of limitations for actions against the United States Government and possibly United Air Lines, and provide at long last the basis for relief to the suffering victims of this brutal and preventable crash.

F. Unsafe piloting techniques such as high-sink-rate approaches to a landing; near-crash followed by Captain incapacitation during instrument approach, plaintiff's reporting of which was followed by harassment, intimidation, and threats of suspension from his job assignment.

9. Defendants unlawfully abused the plaintiff, the attacks increasing with the plaintiff's increased discovery of and reporting of major safety violations at United Air Lines. Tactics used by the FAA included:

A. Pressure to alter reports showing United Air Lines in more favorable light, omitting damaging factual information on safety deficiencies, irregularities and violations.

B. Threatened and actual removal of plaintiff from inspection functions if plaintiff continued to report unfavorable aspects of United Air Lines air carrier safety program.

C. Removal of plaintiff from inspection assignment: when known unsafe crewmembers were scheduled for flight checks.

D. Threatened transfer of plaintiff to out-of-country assignment if reports continued. This threat by FAA management mimicked those received from United Air Lines, and referred to forced transfer out of the country of plaintiff's predecessor, who also vigorously protested the massive safety irregularities.

E. Instructions from superiors in FAA to ignore unsafe training program, non-compliance with important emergency evacuation training program, and other irregularities, in defiance of the responsibilities under the Federal Aviation Act and other government directives, orders, regulations, writings.

F. Written memorandum accusing the plaintiff of being unable to get along with others, using as the stated basis the plaintiff's legally required reports, the reports describing United's training program deficiencies and irregularities. These same long-standing irregularities were associated with prior air crashes, and were subsequently identified in the CAB Salt Lake City accident report with the crash and many deaths.

10. Plaintiff demanded of higher FAA District and Regional management that an investigation of the serious allegations be made, due to their critical nature and relationship to air safety. Plaintiff offered repeatedly to produce official government reports to support his allegations that a serious safety and personnel problem existed within the FAA that were adversely affecting air safety. By requirement of the Federal Aviation Act (49 USC 1301 et seq.) the FAA was obligated to make an investigation. Instead, with the tacit approval of the Civil Aeronautic Board, with whom the nation's air safety is entrusted, the FAA increased the harassment, intimidation and abuse of the plaintiff, adversely affecting air safety. The United Air Lines Salt Lake City crash was an outgrowth of this conspiracy.

11. Plaintiff, being unable to obtain an investigation of the serious safety irregularities that would surely result again in needless deaths in preventable air carrier crashes, filed an employee grievance, using Civil Service Commission employee grievance procedures to circumvent the administrative block, and to document in one hearing many of the safety irregularities that existed.

12. To discredit the plaintiff's exposures of serious safety irregularities, the FAA embarked on a massive libel and slanderous attack upon plaintiff, misusing government facilities for their accomplishment. Among the attacks directed against the plaintiff by the FAA were:

A. Fabricated charge of Unexcused Absence.

B. Fabricated charge of AWOL.

C. Fabricated charge, of insubordination.

D. Fabricated insubordination action.

E. Fabricated reprimand charge using plaintiff's officially required air safety reports.

F. Fabricated charges insinuating plaintiff may have psychiatric problems, possibly a warning to other FAA inspectors not to provide any aid to the plaintiff during the administrative hearing action into air safety and FAA irregularities.

G. Threats against plaintiff, including reference to his family's welfare, warning against proceeding with administrative hearing grievance, such threats contrary to Civil Service Commission rules of conduct, and known to exist by the Commission.

H. Cancellation of valued recurrent jet training.

I. Suspension from job assignment.

J- Transfer out of the area to another state, and into a work assignment not compatible with plaintiff's previous responsibilities or long-term experience, serving as punishment to the plaintiff for not cooperating with the persons in control at the FAA, and not cooperating in the sequestering of illegal and unsafe activities.

13. During the FAA administrative grievance hearing initiated by the plaintiff, the plaintiff introduced into evidence many copies of already existing FAA reports of safety irregularities at United Air Lines, indicating a long standing FAA cover-up. It was during this hearing that the plaintiff serendipitously uncovered the sequestered FAA document associated with the United Air Lines DC-8 crash into New York City, and further showed the FAA's intent to cover up for United's serious irregularities, regardless of the price paid in human life. The Civil Service Commission requirement that this administrative grievance hearing be non-adversary was ignored, to where the plaintiff, a lay person, had the legal might of the FAA as his adversary. Requirements of determining air safety irregularities, a part of all CAB hearings into the cause of air crashes, requires that hearings be of a non-adversary nature. This requirement also existed during the FAA administrative hearing, but was ignored. The Executive Director of the FAA, acting as hearing officer at the hearing, rendered a decision ignoring most, and distorted the remainder of the evidence introduced by plaintiff, showing again the pattern and practice of FAA non-enforcement of their own safety regulations and safety standards as it pertains to United Air Lines. By this action, known and officially reported unsafe and illegal safety practices were continued, in blatant violation of Federal air safety laws, regulations and the Federal Aviation Act. The previous association of these irregularities and deficiencies with horrendous consequences were known to all the participants, being intuitively obvious and well associated within the area of air safety activities. The consequences yet to be paid were also well known, and such consequences were clearly described by the plaintiff in written reports to the FAA, the Civil Aeronautic Board, and others who conspired to protect the FAA's conduct.

14. As was forewarned, and as could be expected, a United Air Lines jet crashed and burned at Salt Lake City less than one year later. Every safety deficiency and irregularity stated and implied in the CAB'S accident report of that tragedy were earlier the direct target of fraudulent cover-up at the FAA administrative hearing initiated by the plaintiff. Thirty-four persons were cremated in that anticipated tragedy, the occurrence of which was either caused, or allowed to occur, by misconduct of the defendants.

15. Plaintiff repeatedly complained to, and appealed to the Civil Service Commission, describing in detail the FAA misconduct, of the massive violation of CSC and Executive directives, the alleged criminal misconduct, and warning of the air fatality consequences. Not a single responsive reply was received, thereby bringing the CSC into the conspiracy to protect the FAA from criminal and other prosecution. The plaintiff's numerous detailed letters were also ignored by the Civil Service Commission Board of Appeals and Review, they falsely stating in its June 7,

1968, decision that plaintiff was non-responsive and would not cooperate. Instead, it was they who acted shield the conspiracy of misconduct and the part played by the. Civil Service Commission, thus depriving the plaintiff of his rights under the administrative remedies. This complaint then is an attempt to defeat the conspiracy and fraud that previously shielded this high administrative conspiracy.

16. For the plaintiff to have changed his conduct to accommodate the FAA demands, avoiding the confrontation that occurred, would have required the plaintiff to violate a great number of Federal statutes, directives, rules and regulations, Including among them:

- A. Federal employee job description and responsibilities.
- B. Civil Service Commission regulation 731.201 (b) pertaining to misconduct generally.
- C. Civil Service Commission rule 5.4, pertaining to malfeasance, misfeasance, nonfeasance, or any law, rule or regulation of the CSC.
- D. 18 USC § 1001 pertaining to false statements.
- E. 18 USC § 2071 (b) as it pertains to concealing or falsifying government records.
- F. Executive Order 11222-pertaining to standards of conduct for government employees.
- G. Moral responsibilities as a government employee and citizen.

17. Plaintiff was confronted with a difficult situation, a stacked deck of corrupt government departments, showing vicious contempt for the lives that were already lost due to the misconduct, and contempt for the lives that would be lost and directly associated with illegal and immoral acts. The plaintiff's rights and laws protecting those rights were prostituted by the FAA; the plaintiff's administrative remedies received identical treatment. The plaintiff, nor any other government employee or citizen of the United States, should be expected to endure the savage attacks misusing government facilities in these despicable actions.

18. The commencement of time for filing this action started with exhausting the Administrative remedies, being the decision of the United States Civil Service Commission Board of Appeals and Review decision, dated June 7, 1968; and as provided by 28 USC § 2401 (a).

19. The gravity of this complaint is further shown by the conspiracy between the FAA and the CAB, in withholding from the public the wrongful acts that played a major role in certain air disasters. In violation of section 91002 and others of the Federal Aviation Act, the CAB refused to conduct an investigation into the air safety irregularities and those of the FAA, even though aware of previous FAA crash-related irregularities and misconduct.

THE LAW

FIRST CLAIM FOR RELIEF

20. Defendants, by engaging in the above-described acts, conspired to prevent, by force, intimidation, and threat, the plaintiff from discharging his duties as an inspector for the FAA and have injured his person on account of his lawful discharge of the duties of his office, in blatant violation of 42 USC § 1985 and the First Amendment to the United States Constitution.

SECOND CLAIM FOR RELIEF

21. As und for a Second Claim for Relief, Plaintiff realleges and incorporates by reference paragraphs 1 through 19.

22. 49 USC § 1441 provides that-defendants shall promote air safety, and sets forth a standard of conduct for the benefit of the public, particular passengers of civil aircraft carriers, and plaintiff, as a past employee of the FAA and a present user of airspace, has standing to enforce that standard

of conduct by obtaining damages for injury to his person when he attempted to exercise his legal duty to have the above law obeyed by defendants.

THIRD CLAIM FOR RELIEF

23. As and for a third claim for Relief, Plaintiff realleges and incorporates by reference paragraphs 1 through 19.

24. 28 USC § 1361 confers upon this Court jurisdiction to compel any officer or employee of the United States to perform a non-discretionary duty 25. The Federal Aviation Act requires defendants to promote air safety and insure that all applicable provisions of the law in that regard are knowingly enforced and take action against air carriers when presented with evidence that these carriers are not in compliance.

26. Defendants, by their conduct complained of herein in paragraphs 1 through 19, knowingly breached their duty and unlawfully retaliated against plaintiff for performing Ins duty, forcing plaintiff from FAA employment.

WHEREFORE, plaintiff prays that this court:

1. Declare that actions of defendants forced plaintiff from employment with the FAA.
2. Declare that the actions of defendants complained of herein violated plaintiff's rights under the First and Fifth Amendments to the United States Constitution and 42 USC 1985.
3. Award plaintiff damages in excess of \$10,000, the precise amount to be ascertained upon trial, for repeated and continuous violations of plaintiff's constitutional rights;
4. Order defendant respondents to reinstate petitioner with full back pay, in his job as air carrier operations inspector with the FAA; and Grant such other relief, and take such actions, as the Court deems just and proper.

Dated: September 26, 1974.

RODNEY F. STICH
In Propria Persona