

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

JONATHAN CORBETT,)	
)	
Plaintiff,)	
)	
v.)	No. 1:12-cv-20863-JAL
)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

DECLARATION OF MYRIAM BERIO

I, Myriam Berio, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Assistant Federal Security Director for Screening (“AFSD-S”) appointed by the Transportation Security Administration (“TSA”) to oversee TSA’s security screening operations at Fort Lauderdale-Hollywood International Airport (“FLL”). I have been the AFSD-S at FLL since May, 2009 and an employee of TSA since March, 2002. I am over 18 and a resident of Fort Lauderdale, Florida, and this Declaration is based on personal knowledge or knowledge gained in my official capacity.

2. Congress has directed that TSA take certain measures intended to preempt threats to air travel, including by searching passengers and their property before boarding. In response, TSA has established checkpoints within each terminal at FLL at which passengers and their accessible property are screened so that no individual or item that represents a threat to airline security enters the “sterile area” of the airport where passengers board their flights.

3. In order to ensure that this screening occurs in a uniform, efficient, and courteous manner at each airport under TSA's authority, TSA has implemented standard operating procedures ("SOP") and directives that are applicable to screening operations. As the AFSD-S, part of my responsibility is to ensure that the appropriate TSA personnel at FLL are aware of and adhere to these SOP, as well as any applicable directives regarding screening.

4. TSA has implemented a set of SOP that set forth the basic principles and processes that TSA personnel must follow when conducting pre-flight screening of passengers and property. Under these SOP, once a passenger has begun the screening process, that passenger is not entitled to withdraw from screening unilaterally, and that if the screening of a passenger or his or her property cannot be completed, law enforcement must be summoned to resolve the issue.

5. There is also a companion set of SOP for TSA personnel with management responsibility over the screening process, which build on the basic screening SOP but provide further guidance and instruction. These SOP contemplate that Supervisory Transportation Security Officers ("STSO") and other personnel with management responsibility for the screening process, such as Transportation Security Managers and Behavior Detection Managers, will notify law enforcement at the airport when called for in any applicable TSA SOP, guidance, or directive.

6. TSA has also issued Management Directive 100.4 ("MD 100.4") applicable to Transportation Security Searches. Paragraph 6(A)(3) of MD 100.4 notes that "[s]creening may including examination of individuals and all contents of accessible property, including, but not limited to, containers, compartments, and envelopes.

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Screening may be conducted for the purpose of finding threat items or identification media, as appropriate.” Paragraph 6(A)(6) goes on to note that “[o]nce screening at the checkpoint has begin, as a policy matter, TSA may screen an individual’s accessible property for identification media,” and that “[t]he purpose of screening for identification media is to re-verify that the individual’s identity has been matched against government watch lists.” Further, Paragraph 6(A)(1) states that “TSA will consult and coordinate with Federal, state, and local law enforcement officials . . . when conducting [screening and searches].” A true and correct copy of MD 100.4, which went into effect on September 24, 2007, and was in effect at the time of the underlying facts in this case, is appended to this Declaration as Attachment 1.

7. In August 2011, TSA fulfilled its obligation to screen passengers through the use of Advanced Imaging Technology (“AIT”) or walk-through metal detectors (“WTMD”) as primary screening technologies. Passengers may decline to be screened by either of these technologies, however.

8. When a passenger requires additional screening because they cannot be cleared to enter the sterile area through screening by AIT or WTMD – or when a passenger has declined to be screened by either technology (“opted-out”) – pat-downs are used in order to ensure the passenger is clear to enter the sterile area.

9. TSA screening procedures require that passengers be informed of what a pat-down entails, and TSA presently allows passengers to decline to be screened by pat-down if they are uncomfortable with the process. A passenger who declines a pat-down, however, has essentially declined the last available form of screening and therefore cannot be cleared to enter the sterile area.



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10. Before a passenger who has declined all offered forms of screening can be released to return to the public side of the airport terminal, TSA screening procedures require that the inspection of any carry-on baggage that the passenger also submitted for screening must be completed. This requirement ensures that individuals attempting to sneak materials through security in their accessible property cannot withdraw on the cusp of detection, and thereby test TSA's security systems.

11. As part of that effort, TSA screening procedures require checkpoint employees to search all items in the passenger's carry-on baggage, to include books and identification material. TSA has determined that books may be used to conceal prohibited or other potentially dangerous items. Additionally, where identification media are found in a passenger's carry-on baggage, they are inspected to ensure that the passenger does not use a different name than the name that was submitted for vetting through TSA's Secure Flight Program, which is a behind-the-scenes program that enhances the security of domestic and international commercial air travel through the use of improved watch list matching. A passenger with identification media in more than one name may be attempting to circumvent the Secure Flight watch-list matching program, and any additional names noted during the screening process must be vetted through the Secure Flight Program as well.

12. TSA screening procedures require that law enforcement personnel be notified when a passenger declines to complete screening, and that certain checks be run using the passenger's information.

13. By law, TSA is also required to establish an air transportation security agreement ("ASP") with each airport operator. These ASPs address a number of issues

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related to TSA's presence at the airport, and must include a provision that ensures that there will be a law enforcement presence and capability at each airport that is adequate to ensure the safety of the traveling public.

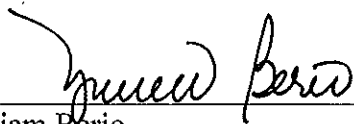
14. Under the ASP for FLL, this law enforcement presence is provided by the Broward County Sherriff's Office ("BCSO"). The BCSO is a Florida law enforcement entity that has no formal affiliation with TSA, and no connection to TSA beyond the ASP. The BCSO is not deputized to perform federal law enforcement functions for TSA.

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 19, 2012.
Fort Lauderdale, Florida



Myriam Berio



DECLARATION