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UNITED STATES ADMINISTRATIVE LAW COURT
U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, DC

IN THE MATTER OF PETER L. BRADLEY	FAA DOCKET NO,. CP04WP0030 (Civil Penalty Action) DMS NO.FAA 2005-20532 7-14 JOYCE B. LADAR DECLARATION AND PETER L. BRADLEY'S <u>STATEMENT OF FACTS</u> Courtroom: Administrative Law Judge Richard C. Goodwin

I, JOYCE B. LADAR, declare:

The following facts are an accurate recitation of information taken from three sources: 1) facts personally known to me; 2) facts taken from police and federal agent interviews of witnesses to March 16, 2000; 3) medical and case file documents cited. I declare under penalty of perjury this statement is true and correct and is made under penalty of perjury on this fourth day of August, 2005 in San Francisco, California.

Joyce B. Ladar

The following facts were taken from interviews, with eye witnesses, given to law enforcement during the investigation of the March 16th incident:

Flight Attendant "Ginny" Cavins had been a flight attendant for over fifteen years. The first hour of the Alaska Airline flight 259 non-stop to San Francisco, on March 16, 2000, was a busy one for Cavins, Flight Attendants Romi Partridge and Cindy Russell in the rear cabin. They started beverage service fifteen minutes after take-off, followed by the meal and then a second round of beverages. During meal service, Respondent Peter Bradley, the passenger in window seat 13F, sat quietly. When Cavins asked *him*[1] whether *he* wanted a refill of *his* beverage, *he* said something about the woman sitting in the aisle seat. Cavins couldn't remember anyone in that seat, but thought perhaps *he* was expecting another passenger to join *him* there. *His* remarks were not responsive to her questions, but created no difficulty. *He* had been served no alcoholic beverage. *He* didn't smell of alcohol and *his* speech was not slurred. A little later, when she was picking up trash, she noticed *he* was taking out the items in the pocket of the seat in front of *him* as if searching for something.

The Respondent came back to the rear of the plane to use the lavatory several times during the flight. When *he* came back a third time, Cavins thought *he* might have diarrhea, but she and the other flight attendant, Romi Partridge, decided to watch *him* - there was something not quite right about him. When *he* left the lavatory for the third time, *he* walked to the opposite side of the plane, sitting down in row 33. *He* changed seats several times within that row, took off *his* shoes and socks, put *his* shoes back on without socks and took off *his* watch, removed *his* shirt and put it back on.

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[1] Pronouns referring to Respondent are in italics to avoid confusion with pronouns referring to male witnesses.

Flight Attendant Partridge called to the cockpit, telling Co-Pilot Robert Porkolab, Jr. that Respondent was acting strangely. Porkolab asked Partridge to come forward to explain. Partridge told the co-pilot that Respondent was changing seats, not responsive and made frequent trips to the bathroom, but that she did not consider *him* a serious problem at that time.

Respondent's behavior became more erratic. *He* took *his* shirt off and walked around the cabin. Flight attendant Partridge told *him he* could not walk through the cabin without a shirt, and although *he* returned and put *his* shirt back on, *he* was constantly fidgeting and moving around the cabin. *He* took off *his* watch and placed it in the motion sickness bag in one of the seats, then took it out of the bag and put it on again. *He* again removed *his* shirt. *He* turned on the call button but did not want anything when a flight attendant responded. Cavins told *him* to put *his* shirt back on, but this time *he* refused, although *he* put on the seat belt at her request. *He* emptied everything out of the seat pocket again, and again began roaming. *He* told her *he* was traveling with the woman in 13E, but there was no woman in 13E. This time *he* was more aggressive, shoving Partridge when she tried to get *him* to resume *his* seat and threatening to "fucking kill" each or "kill you all." Partridge alerted Co-Pilot Porkolab that Respondent had just pushed her and now had become a problem. Porkolab alerted security on the ground to meet the airplane. Porkolab instructed the Flight Attendants to try not to agitate Respondent. After roaming up and down the aisle and changing seats a number of times, Respondent sat down again, but suddenly purposely walked at a fast pace toward the front of the plane and sat down in 6D. Partridge immediately called the cockpit to warn 'whatever you do, don't open the door.' Porkolab made sure the cockpit door was locked. Respondent switched *his* seat to 6A, and took

off *his* shirt. *He* then walked to the front of the plan and sat down in row 1B.

First class passenger Michael Boughton was in the window seat in row 3A, when Respondent first showed up at the front of the plane walking around shirtless in an agitated state. The first three hours of the four hour flight had been uneventful in First Class. Boughton, an ex-marine, who was employed by the Saudi Arabian Embassy in Washington, D.C. in executive protection, had noticed Respondent earlier, while waiting in the Puerta Vallarta airport. *He* had seemed a bit too friendly – taking the seat next to Boughton, showing *his* vacation pictures and pictures of a woman in a highway patrol uniform, who *he* claimed was *his* aunt who had driven him to the airport. *He* explained that *he* had missed his flight to Kansas City and asked Boughton's name and the names of various strangers walking by. When *he* also drew an elderly couple seated nearby into the conversation, Boughton grabbed the opportunity to get away from *him*.

Now, during the last hour of the flight, Boughton noticed Respondent again, bare chested, in first class. The seat belt light was on but Respondent didn't notice. A flight attendant's voice over the loud speaker directed all passengers to resume their seats, but Respondent ignored the directive. He saw Respondent walk up and try to enter the cockpit door. Boughton could tell that the First Class Flight Attendant, seemed disturbed by Respondent's behavior. Boughton moved into the aisle seat to deter Respondent from sitting down next to him, and also to be available in case he was needed. Noticing *the big guy's* agitation, Boughton went up to try to calm *him*, trying to engage *him* in a quiet conversation about the vacation pictures, but that subject didn't take. Instead Respondent asked if Boughton wanted to kill *him* or something. *He* showed Boughton a small folded pocket knife, approximately 3½ inches long, and offered to give it to Boughton. Boughton refused the

knife and returned to his seat hoping this would keep *the man* from becoming more aggressive. Boughton now was concerned *the man* might become dangerous. He took out his silver pen, in case he needed it for a weapon, and kept watchful eyes on what was happening.

Coach flight attendant Cavins again tried to calm *Respondent.* She went up to the first class galley where *he* was standing and told *him* the seat belt sign was on and *he* needed to sit down. Although *he* agreed, *he* did not comply. *He* told her "I'm going to kill you all. I'm going to kill him. He's trying to get me. I know he's on the plane. I'm not going to let you. I'm going to get him first." She tried to divert *him,* asking where *he* was going and other questions about *his* trip. *He* responded only with 'Kansas City'. She again told *him he* had to sit down for safety. *He* squatted down where *he* was saying "Okay, I'm sitting." *He* then stood up and tried to open the outside doors and when that was not successful, began rattling the handle of the cockpit

Porkolab could hear Respondent yelling and saw the cockpit door jiggle vigorously back and forth. The Captain told Porkolab to grab the fire axe and if Respondent got into the cockpit to hit *him* with the blunt side of the axe. Porkolab put the axe in his lap, but when Respondent stopped jiggling the door, he put the axe down by his side and started the descent into San Francisco. He was surprised when the door suddenly burst open and this very large man grabbed for the controls.

With a sickening lurch, the horrified passengers felt the nose of the plane dip; they were losing altitude, but not speed – they were going down. The co-pilot was beating the strong arms – trying to block the controls. Porkolab used the axe to try to block Respondent and push *him* backward. The Captain yelled for help from the passengers. Boughton was immediately on top of Respondent, grabbing *him* around the neck with his left hand, stabbing *him* repeatedly in the back with the silver pen. Porkolab began punching *him.* At almost the same time,

passengers Chris Howard, Michael Keith, and Douglas Carlson with the help of other male passengers, wrestled *him* away from the co-pilot and pulled *him* backward down to the floor. He was a big guy and landed front down on top of Chris Howard.

Flight attendant Cindy Russell was trapped on the left side of the galley, while Cavins, tried to block the cockpit door from the right. Cavins called Partridge to bring the flexcuffs, which were then placed on *Respondent's* arms and feet. Once *he* was safely trussed, the men turned *him* on *his* back and pulled *him* backward until *his* feet cleared the cockpit door, and *he* was next to the bathroom. The flight attendant checked *his* pulse, making sure *he* was breathing, and there *he* remained, falling asleep and snoring, until the plane landed.

Porkolab noticed blood all over the cockpit. His hand was bleeding but he did not know how he had been cut. Boughton had blood on his shirt, but it wasn't his own.

The following facts were taken from 1) the USA v. Peter Bradley case file, 2) the medical reports made available by the defense to the prosecution,3) the court and U.S. Pre Trial Services Department (hereinafter "Pre-Trial Services") while the criminal case was pending, or 4) my personal knowledge..

When the plane landed (March 16, 2000) in San Francisco Respondent was immediately arrested by the Federal Bureau of Investigation (hereinafter "FBI") and taken to Mills Peninsula Health Emergency Room where *he* was examined, given a variety of tests, and kept overnight. The test showed no alcohol or illegal drugs in *his* system. Nurses noted *he* was initially disoriented and delusional, but calm by the time *he* left Emergency. *He* appeared in court that morning (March 17, 2000) before U.S. Magistrate Judge Bernard Zimmerman. Judge Zimmerman ordered Pre-Trial Services to arrange Psychological testing to determine whether,

if released, Respondent could be a danger to the community. ("Memorandum by Gina M. Silva, U.S. Pre-Trial Services Officer", dated March 23, 2000.) While being transported to jail, *Respondent* again became delusional and delirious, bashing *his* head numerous times against the side of the van (as reported by the other prisoner being transported). The Marshals stopped at the Alameda County Medical Center where Respondent's cuts and bruises were attended as well as a lumbar puncture taken. *He* arrived at the Oakland jail where Psychologist Thomas Neill, Ph.D. tested *him* that night, reporting that in his opinion Respondent no longer posed a threat to *himself* or to others. He concluded Respondent had experienced disturbances in consciousness and cognition which are characteristic of delirium, cause unknown, persisting over a three day period. (Exhibit A [hereinafter Exh. A], "Psychological Evaluation of Thomas Neill, Ph.D." dated March 19, 2000).

Respondent's wife, (Laura Bradley) flew to San Francisco and hired attorneys Jerrold M. Ladar and this attorney (Joyce B. Ladar) to defend Respondent. Within four days, twenty letters arrived from Blue Springs, Missouri stating how completely out of character Respondent's behavior on the plane was for the man they had known at work, play and as a neighbor. (twenty letters) These letters were presented to the Court to support the defense request that *Respondent* be released to the Stanford Hospital Psychiatric Ward for a neurological and psychological study to determine the cause of the March 16th behavior. The court ordered Respondent transferred to the Stanford locked ward for analysis March 24 to 31, 2000. Numerous Stanford doctors extensively examined, tested, questioned and observed Respondent before reaching the diagnoses he had suffered from "(1) Status post 3/16/00 delirium due to encephalitis with this delirium then waxing and waning through 3/18/00" and "(38) encephalitis of unknown etiology and unknown

duration as of 3/16/00." [*Resp. Exh. B*, "Comprehensive Medical and Psychiatric Exam Report" by James R. Missett, M.D. Ph. D. dated June 14, 2000 hereinafter "Stanford Report"; and see Resp. Exh. B1 "James R.Missett, M.D. Vitae") Upon *his* return from Stanford, Respondent was released from custody, closely supervised by Pre-Trial Services.

On April 27, 2000, Respondent was arraigned before U.S. District Judge William H. Alsup on charges of violating one count each of 49 USC Section 46504[2] and 18 USC Section 32a.[3], with a maximum of twenty years imprisonment, $250,000 fine, five years supervised release and $100 special assessment. (USA v. Bradley, CR 00-193 WHA Indictment).

Assistant United States Attorney David Hall (prosecutor) was dubious about relying on the defense's Stanford Report and filed "U.S. Attorney Motion Pre-Trial Psychiatric Examination" which permitted all of the documentation and the Stanford Report to be sent to Stephen J. Holz, M.D. (U.C.S.F. Neurologist) for review. Dr. Holz concluded in his letter of March 6, 2001 to the prosecutor that the Stanford diagnosis was correct.

Judge Alsup asked the parties to agree upon a third expert to provide an opinion on whether Respondent was unconscious at the time of the commission of the acts by reason of delirium due to viral encephalitis or whether the Respondent was legally insane due to delirium. The attorneys agreed upon a review by Phillip J. Resnick, Case Western University, a forensice academic with a background of criminal law experience and expertise in insanity, legal unconsciousness and malingering.[4] Dr. Resnick, after reviewing all documents and

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[2] 49 USC Section 46504, Interference with flight crew and attendants, assault and intimidate a flight crew member and flight attendant of the aircraft and interfere with the performance of the duties of the member and attendant and lessened the ability of the member or attendant to perform those duties.

[3] 18 USC Section 32a, Violence against a person on an aircraft likely to endanger the safety of such aircraft.

[4] Dr. Resnick had, as a forensic expert selected by the government, examined the Unabomber, Steven Stayner and other high profile offenders. (Exh. C1).

reports in the case, reached the conclusion that although Respondent "would qualify for an insanity defense because *his* encephalitis induced delirium caused *him* not to know the nature and quality of *his* acts, the facts of the case fit better a defense of unconsciousness." (*Resp. Exh. C:* "Letter from Phillip J. Resnick, M.D". Case Western University Hospital Report., December 5, 2000; and see *Resp. Exh. C1*, "Curriculum Vitae of Phillip J. Resnick, M.D.").

Judge Alsup, was not satisfied with an expert relying on the documentation and reports of the other doctors. He ordered an independent evaluation be made by Jeffrey R. Weiner, M.D., considered a national expert on the rare defense of unconsciousness. After interviewing Respondent and numerous witnesses and family, along with reviewing all of the original medical notes and medical and police reports, Dr. Weiner formed the opinion that Respondent's behavior satisfied the criteria for both legal insanity and the defense of unconsciousness.. (*Resp. Exh. D:* "Letter from Jeffrey R. Weiner, M.D. Peninsula Psychiatric Association", 4/10/01.

With the foundation from four unanimous prestigious medical sources[5] that Respondent's delusional behavior had been caused by viral encephalitis through no fault of his own, and from two medical-psychiatric experts that his behavior was entirely consistent with legal unconsciousness, the parties agreed, with Judge Alsup's approval, to place Respondent on 18 months of closely monitored Pretrial Diversion, the charges to be dismissed upon its successful completion. (*Resp. Exh. F*: "Agreement for PreTrial Diversion"). Respondent completed diversion without incident and all federal charges were dismissed by Judge Alsup on September 25, 2002. (*Resp. Exh. G* "Order of Dismissal by U.S.District Judge W. H. Alsup", September 25, 2002.)

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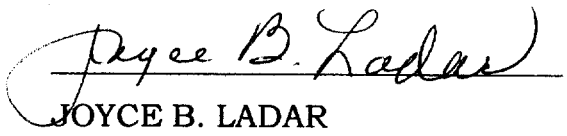
[5] The Medical Reports, which had been filed under seal, were unsealed by the court May, 9, 2001. (*Resp. Exh.E,* "Stipulated Order Unsealing Documents").

Dated: August 4, 2005

Respectfully Submitted



JOYCE B. LADAR

IN RE MATTER OF PETER L. BRADLEY
FAA Docket No. CP04WP0030
DMS FAA Case No. 2000WP750229

PROOF OF SERVICE

The undersigned hereby certifies that his/her business address is 1916 Vallejo Street, San Francisco, California, 94123 and she is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that on this date she caused copies of

JOYCE B. LADAR DECLARATION AND
PETER L. BRADLEY'S STATEMENT OF FACTS

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I declare under penalty of perjury that the foregoing is true and correct, executed this 9th day of August, 2005, in San Francisco, County of San Francisco, California.

/S/
Joyce B. Ladar