

ATTACHMENT 1



**Transportation
Security
Administration**

By First Class and Certified Mail - Return Receipt Requested

Ethan Jeffrey Collins
1929 Leander Dr.
West Columbia, SC, 29172
United States

MAR 23 2021

Re: Determination of Security Threat
Federal Aviation Administration Airman Certificate Number 003772922 and First
Class Medical Certificate 200009218809

Dear Mr. Collins:

This letter serves as initial notification of a security threat determination (Determination of Security Threat). Based upon materials available to the Transportation Security Administration (TSA), which I have personally reviewed, and pursuant to Title 49, United States Code, section 46111, I have determined that you pose, or are suspected of posing, a security threat. Accordingly, TSA is initiating the process to revoke all certificates issued to you by the Federal Aviation Administration (FAA).

As part of this process, TSA is concurrently notifying the FAA of the determination that you pose, or are suspected of posing, a security threat and requesting that the FAA revoke all certificates issued to you by the FAA to be effective immediately.

No later than 60 calendar days from the date of service of this Determination of Security Threat, you may request one of the following options. A request for both options will be considered a request for Option 1.

- OPTION 1: You may serve upon TSA a written request for copies of releasable materials upon which this Determination of Security Threat was based. No later than 60 calendar days, or such longer period as TSA may determine for good cause, after receiving your request for copies of the releasable materials, TSA will serve you with a response. TSA will not disclose classified information, as defined in E.O. 13526 section 1.4, or other information or material protected from disclosure under law, such as sensitive security information and sensitive law enforcement information.

Under this option, you may also serve upon TSA a written reply to the Determination of Security Threat no later than 60 calendar days from the date of service of TSA's response to your request for copies of the releasable materials upon which this Determination of

Security Threat was based. This written reply should include any information that you believe TSA should consider in reviewing the basis for the Determination of Security Threat. No later than 90 calendar days after TSA serves you with a response to your request for releasable materials, or such longer periods as TSA may determine for good cause, TSA will serve you with either a letter confirming the Determination of Security Threat (Confirmation of Determination of Security Threat) or a Withdrawal of Determination of Security Threat. If TSA serves you a Confirmation of Determination of Security Threat, you will be given the opportunity to request a review of TSA's determination by an administrative law judge (ALJ).

If you request Option 1, you must serve all documents upon:

Assistant Chief Counsel, Intelligence & Vetting Operations
 Department of Homeland Security
 Transportation Security Administration
 Chief Counsel – Mail Stop 02
 6595 Springfield Center Drive
 Springfield, VA 20598-6002

- OPTION 2: You may proceed directly to a review request of TSA's Determination of Security Threat by an ALJ, pursuant to Section 207 of the Interim Redress Procedures for FAA Certificate Holders – U.S. Citizens, U.S. Non-citizen Nationals and Lawful Permanent Residents. A copy of these interim redress procedures is enclosed for your reference. Your request must clearly state the issue(s) to be considered by the ALJ, and include a copy of the Determination of Security Threat. You may request an in-person hearing before the ALJ. You may also request an unclassified summary of classified evidence upon which the Determination of Security Threat was based. TSA will serve the unclassified summary to the extent that the national security interests of the United States and other applicable law permit. TSA will serve the unclassified summary no later than 60 calendar days, or such longer period as TSA may determine for good cause, after receiving your request.

If you request Option 2, you must file the request for ALJ review by U.S. Postal Service, fax, or e-mail to the ALJ Docketing Center:

ALJ Docketing Center
 U.S. Coast Guard
 40 S. Gay Street, Room 412
 Baltimore, Maryland 21202-4022
 ATTN: Hearing Docket Clerk
 Fax number: (410) 962-1746, ATTN: Hearing Docket Clerk
 E-mail address: aljdocketcenter@uscg.mil

If you are unable to submit your request for review and supporting documentation within the 60 calendar day time limit, you may request an extension of time from the ALJ. A request for an extension of time must be made in writing and be received by the ALJ

within a reasonable time before the due date to be extended. Alternatively, you may request an extension after the expiration of the due date by sending a written request describing why the failure to file within the time limit was excusable. The ALJ may grant an extension of the time limit for good cause shown.

You may, if you choose, be represented by counsel during this process at your own expense.

Sincerely,



Thomas L. Bush
Acting Executive Assistant Administrator
Operations Support

cc: Cynthia Dominik
Assistant Chief Counsel for Enforcement
Federal Aviation Administration

**Transportation Security Administration
Interim Redress Procedures for FAA Certificate Holders – U.S. Citizens**

Sec.

- 1 Scope and general requirements.
- 101 General.
- 103 U.S. citizens: Determination of Security Threat.
- 105 U.S. citizens: Information exchange.
- 107 U.S. citizens: ALJ review.
- 109 U.S. citizens: Review by the Transportation Security Oversight Board.
- 111 U.S. non-citizen nationals and lawful permanent residents: Determination of Security Threat.

§ 1 Scope and general requirements.

(a) Applicability. These interim procedures apply to an FAA certificate holder who is a U.S. citizen.

(b) [reserved]

(c) Nondisclosure of certain information. In connection with the procedures in this part, TSA does not disclose to a person subject to proceedings under this part, or such person's counsel, classified information, as defined in E. O. 13526 section 1.4, and reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law.

(d) Representation. Any party may be accompanied, represented, or advised by an attorney or representative designated by the party, at the party's expense, and may be examined by that attorney or representative in any proceeding governed by these procedures. An attorney or representative who represents a respondent and has not previously filed a pleading in the matter must file a notice of appearance in the action, and must serve a copy of the notice of appearance on each party, before participating in any proceeding governed by these procedures. The attorney or representative must include the name, address, and telephone number of the attorney or representative in the notice of appearance. Upon hearing, and for good cause shown, the ALJ or the TSA Final Decision Maker may suspend or bar any person from practicing before it.

§101 General.

(a) Applicability. These interim procedures apply to any individual FAA certificate holder who is a U.S. citizen to whom TSA has served a Determination of Security Threat as provided in these procedures.

(b) Determination of Security Threat, Final Determination of Security Threat, and Withdrawal of Determination of Security Threat. Under these procedures, TSA may serve the following Determinations:

(1) TSA will serve a Determination of Security Threat on a certificate holder and the FAA when TSA determines that a certificate holder poses or is suspected of posing a security threat, and the FAA will issue an Order amending, modifying, suspending, or revoking any part of a certificate as provided in 49 U.S.C. 46111. A certificate holder may seek administrative and judicial review of a TSA Determination of Security Threat or an FAA Order as provided in these procedures.

(2) [reserved]

(3) TSA will serve a Withdrawal of Determination of Security Threat on a certificate holder and the FAA either in accordance with the provisions of these procedures, or when TSA determines that the certificate holder does not pose and is not suspected of posing, a security threat. TSA may serve a Withdrawal of Determination of Security Threat at any time during the administrative and judicial review provided in these procedures.

(c) Extension of time. TSA may grant a certificate holder an extension of the time limits in these procedures for good cause shown. A certificate holder's request for an extension of time must be in writing and be received by TSA within a reasonable time before the due date to be extended; or a certificate holder may request an extension after the expiration of a due date by sending a written request describing why the failure to file within the time limits was excusable. TSA may grant itself an extension of time for good cause.

(d) Requirements for judicial review. No decision is final for purposes of judicial review under 49 U.S.C. 46110 except a final administrative decision upon appeal. The Action of the TSOB constitutes the final administrative decision for U.S. citizens.

(e) Terms used in these procedures. In addition to the terms in 49 CFR part 1500 and § 1515.3, the following terms apply:

Action means the action of the TSOB Review Panel that may affirm, modify, or reverse an ALJ Decision.

Assistant Administrator means the Assistant Administrator for the TSA Office of Law Enforcement/Federal Air Marshal Service.

FAA certificate means a certificate or any part of a certificate issued by the FAA under 49 U.S.C. 44703.

FAA order means an order issued by the FAA, in response to a TSA Determination of Security Threat, that amends, modifies, suspends, or revokes an FAA certificate.

Certificate holder means an individual who holds an FAA certificate.

Party means either a certificate holder appealing a Determination of Security Threat or FAA Order, or the TSA, during proceedings before an administrative law judge, , or a panel of the TSOB.

Releasable materials means all relevant documents that support the Determination of Security Threat disclosed to the maximum extent that the national security interests of the United States and applicable law permit. TSA does not disclose classified information, as defined in E.O. 13526 section 1.4, or other information or material protected from disclosure under law, such as sensitive security information and sensitive law enforcement information.

Security threat means that an individual poses or is suspected of posing a risk of air piracy; a risk of terrorism, including a threat to transportation or civil aviation security, or other threat to national security; or a threat to airline or passenger safety.

TSOB means the Transportation Security Oversight Board as provided in 49 U.S.C. 115.

TSOB Review Panel means the panel established by the TSOB to review an ALJ Decision, as provided in 49 U.S.C. 46111(d).

§ 103 U.S. citizens: Determination of Security Threat.

(a) Applicability. This section applies to an individual U.S. citizen FAA certificate holder.

(b) Issuance. If the Deputy Administrator determines that an FAA certificate holder poses or is suspected of posing a security threat, the Deputy Administrator will serve a Determination of Security Threat upon that individual and the FAA. The Determination of Security Threat will include the following:

(1) A statement that the Deputy Administrator reviewed the materials upon which the Determination of Security Threat was based.

(2) A statement that the Deputy Administrator has determined that the certificate holder poses or is suspected of posing a security threat.

(3) A request that the FAA issue an immediately effective Order either amending, modifying, suspending, or revoking the FAA certificate, as provided in 49 U.S.C. 46111.

(4) Information on how the certificate holder may engage in an information exchange with TSA and seek review of the TSA Determination of Security Threat and the FAA Order.

(c) FAA Order. After the FAA receives the Determination of Security Threat it will issue an Order amending, modifying, suspending, or revoking the FAA certificate, as provided in 49 U.S.C. 46111.

(d) Certificate holder response. No later than 60 days from the date of service of the FAA Order, the certificate holder may take one of the following options. A request for both options will be considered a request for option (1).

(1) The certificate holder may engage in an information exchange with TSA by requesting releasable materials from TSA with an option of submitting a reply, as provided in

§ 105, followed by an opportunity to request review by an administrative law judge (ALJ).

(2) If the certificate holder does not choose to engage in an information exchange, as provided in § 105, the certificate holder may proceed directly to a request for ALJ review as provided in § 107.

§ 105 U.S. citizens: Information exchange.

(a) Applicability. This section applies to an individual U.S. citizen FAA certificate holder.

(b) Certificate holder request for materials. The certificate holder may serve a written request upon TSA for copies of the releasable materials upon which the TSA Determination of Security Threat and FAA Order were based. The certificate holder must serve this request upon TSA no later than 60 days from the date of service of the FAA Order.

(c) TSA response to request for materials. No later than 60 days, or such longer period as TSA may determine for good cause, after receiving the certificate holder's request for copies of the releasable materials, TSA will serve the certificate holder with a response. TSA will not disclose classified information, as defined in Executive Order 13526 section 1.4, or other information or material protected from disclosure under law, such as sensitive security information and sensitive law enforcement information.

(d) Certificate holder reply. The certificate holder may submit a reply to TSA. The certificate holder's reply may include any information the certificate holder believes TSA should consider in reviewing the basis for the TSA Determination of Security Threat and the FAA Order. The certificate holder must submit a reply no later than 60 days from the date of service of TSA's response to the certificate holder's request for releasable materials under paragraph (c) of this section.

(e) TSA review. The Deputy Administrator will review the Determination of Security Threat, the materials upon which the Determination of Security Threat was based, the certificate holder's reply, if any, and any other relevant materials or information available. No later than 90 days after TSA serves the certificate holder with a response to a request for releasable materials, or such longer period as TSA may determine for good cause, TSA will serve a letter confirming the Determination of Security Threat or will serve a Withdrawal of Determination of Security Threat, in accordance with paragraphs (f) and (h) of this section.

(f) Letter confirming Determination of Security Threat. If the Deputy Administrator determines that the certificate holder poses or is suspected of posing a security threat, the Deputy Administrator will serve a letter on the certificate holder confirming the Determination of Security Threat. The letter will include a statement that the Deputy Administrator reviewed the Determination of Security Threat, the certificate holder's reply, if any, and any other materials or information available, and has determined that the certificate holder poses or is suspected of posing a security threat. A letter confirming the Determination of Security Threat does not constitute a final order under 49 U.S.C. 46110.

(g) ALJ review. If TSA serves the certificate holder a letter confirming the Determination of Security Threat, the certificate holder may request ALJ review of the TSA Determination of Security Threat and FAA Order under § 107(b).

(h) Withdrawal of Determination of Security Threat. If the Deputy Administrator determines that the certificate holder does not pose and is not suspected of posing a security threat, TSA will serve upon the certificate holder and the FAA a Withdrawal of Determination of Security Threat, and the FAA will withdraw the FAA Order.

§ 107 U.S. citizens: ALJ review.

(a) Applicability. This section applies to an individual U.S. citizen FAA certificate holder seeking review of a TSA Determination of Security Threat and the FAA Order as described in § 103.

(b) Request for review. The certificate holder may request a review by an ALJ. If the certificate holder did not request releasable materials under § 105(b), the request must be served no later than 60 days from the date of service of the FAA Order. If the certificate holder requested releasable materials under § 105(b), the request must be served no later than 60 days from the date of TSA's service of a letter confirming the Determination of Security Threat.

(1) The request for review must clearly state the issue(s) to be considered by the ALJ.

(2) The request for review must include a copy of the TSA Determination of Security Threat and the FAA Order. If applicable, the request for review must also include a copy of the letter confirming the Determination of Security Threat and all materials provided by the certificate holder to TSA in the reply filed under § 105(d).

(3) The certificate holder may include in the request for review a request for an in-person hearing before the ALJ.

(4) The certificate holder must file the request for review by mail to the ALJ Docketing Center, as directed in the information enclosed with the Determination of Security Threat.

(5) The certificate holder may request an unclassified summary of classified evidence upon which the TSA Determination of Security Threat and the FAA Order were based. TSA will serve the summary to the extent that the national security interests of the United States and other applicable law permit. TSA will serve the summary no later than 60 days, or such longer period as TSA may determine for good cause, after receiving the certificate holder's request.

(c) Extension of time. The ALJ may grant an extension of time limits for good cause shown. A request for an extension of time must be in writing and be received by the ALJ within a reasonable time before the due date to be extended; or a party may request an extension after the expiration of a due date by sending a written request describing why the failure to file within the time limits was excusable.

(d) Duties of the ALJ. (1) The ALJ must possess the appropriate security clearance necessary to review classified or otherwise protected information and evidence.

(2) The ALJ may do the following:

- (i) Receive information and evidence.
 - (ii) Determine whether an in-person hearing is warranted.
 - (iii) Give notice of and hold conferences and hearings.
 - (iv) Administer oaths and affirmations.
 - (v) Examine witnesses.
 - (vi) Regulate the course of the hearing including granting or denying extensions of time limits.
 - (vii) Dispose of procedural motions and requests and issue a Decision.
- (3) The ALJ may not do the following:
- (i) Consider the constitutionality of any statute, provision, regulation, or executive order.
 - (ii) Decide issues involving the validity of a TSA regulation, order, or other requirement under the U.S. Constitution, the Administrative Procedure Act, or other law.

(e) Discovery. (1) TSA will provide the certificate holder with a written explanation of the basis for the Determination of Security Threat, and releasable materials unless already provided under § 105(c), no later than 60 days after the certificate holder requests ALJ review, or such longer period as TSA may determine for good cause.

(2) Discovery is limited to the written explanation of the basis for the Determination of Security Threat; releasable materials; the unclassified summary of the classified evidence upon which the TSA Determination and the FAA Order were based, to the extent that the national security interests of the United States and other applicable law permit, if requested by the certificate holder; the names of witnesses the parties expect to present at trial, and to the extent the witnesses are Government witnesses, the extent that the national security interests of the United States permit release of the names of witnesses; and any unclassified evidence not provided as releasable materials that the parties plan to present at trial.

(3) TSA will not disclose in discovery classified information, as defined in E.O. 13526 section 1.4, or other information or material protected from disclosure under law, such as sensitive security information and sensitive law enforcement information.

(f) Pre-hearing review and in-person hearing determination. (1) Prior to the hearing, the ALJ may request the parties to submit to the ALJ, with service on the opposing party, unclassified written or documentary evidence the parties intend to submit at hearing and arguments in support of an in-person hearing. After the initial of information exchange, either party may file a motion

to supplement the record with relevant evidence that was not available during the information exchange.

(2) The ALJ will review any classified information or any other information or material not warranting disclosure or protected from disclosure under law on an ex parte, in camera basis. The provision of source documents is at the discretion of the intelligence agency that originated the source documents.

(3) If the certificate holder requested an in-person hearing, the ALJ will review the information and any arguments in support of an in-person hearing and determine whether an in-person hearing is warranted.

(4) If the ALJ grants a request for an in-person hearing, the hearing will be closed to the public.

(5) Any in-person hearing will be held at TSA's Headquarters building located in Arlington, Virginia, or, on request of a party and for good cause shown, at an alternate location selected by the ALJ that provides a level of security commensurate with any classified evidence presented at the hearing.

(g) Conduct of hearing. The hearing is conducted as follows:

(1) Except for good cause shown by either party, the hearing will begin no later than 60 days from the date of receipt of the request for hearing.

(2) The ALJ review of the TSA Determination of Security Threat and FAA Order is de novo.

(3) Either party may file a motion to supplement the record with evidence relevant to the issues on appeal that was not available prior to the hearing.

(4) The parties may present evidence by oral testimony, documentary or demonstrative evidence, rebuttal evidence, and cross-examination, as permitted by the ALJ. Evidence that is irrelevant, immaterial, or unduly repetitious will be excluded.

(5) The ALJ will review any classified information or any other information or material not warranting disclosure or protected from disclosure under law on an ex parte, in camera basis, and will consider such information in rendering a Decision if the information appears to be material and relevant. The provision of source documents is at the discretion of the intelligence agency that originated the source documents.

(6) The burden of proof is on TSA.

(7) The standard of proof is preponderance of the evidence on the record.

(8) The parties may submit proposed findings of fact and conclusions of law.

(9) If the certificate holder fails to appear, the ALJ may dismiss the appeal.

(10) If the ALJ grants the certificate holder's request for an in-person hearing, a verbatim transcript will be made of the hearing and will be provided upon request at the expense of the requesting party. The certificate holder cannot be present at any time classified or otherwise protected evidence is discussed, and classified or otherwise protected information will be redacted from the transcript before it is provided to the certificate holder.

(h) Decision of the ALJ. (1) The record consists of the certified transcript and all documents and materials submitted for the record and accepted by the ALJ by the conclusion of the hearing.

(2) The ALJ will issue an unclassified written Decision with no classified or otherwise protected information to the certificate holder no later than 60 days from the close of the record and serve the Decision on the parties. The ALJ may issue a Decision containing protected information to TSA, if applicable.

(3) The ALJ Decision may be appealed by either party to the TSOB in accordance with § 109.

(i) Withdrawal of Determination of Security Threat. Unless timely appealed to the TSOB pursuant to § 109, if the ALJ determines that the certificate holder does not pose and is not suspected of posing a security threat, TSA will serve a Withdrawal of the Determination of Security Threat upon the certificate holder and the FAA, and the FAA will withdraw the FAA Order.

§ 109 U.S. citizens: Review by the Transportation Security Oversight Board.

(a) Applicability. This section applies to an individual U.S. citizen FAA certificate holder, or TSA, appealing an ALJ Decision issued under § 107(h).

(b) Review by the TSOB Review Panel. (1) The certificate holder or TSA may request that the TSOB review the ALJ Decision by filing a notice of appeal no later than 60 calendar days after the issuance of the ALJ Decision, in accordance with the TSOB's.

(2) TSA will provide the TSOB with a complete record of administrative proceedings in accordance with the TSOB's rules.

(3) Unless TSA timely seeks judicial review, if the TSOB Review Panel's Action provides that the certificate holder does not pose and is not suspected of posing a security threat, TSA will serve a Withdrawal of Determination of Security Threat on the certificate holder and the FAA, and the FAA will withdraw the FAA Order.

(c) Judicial review of the Action of the TSOB Review Panel. A certificate holder substantially affected by an Action of the TSOB Review Panel, or the Administrator when the Administrator decides that the Action of the TSOB Review Panel will have a significant adverse impact on carrying out 49 U.S.C. subpart VII, part A, may seek judicial review of the FAA Order, as affected by the Action of the TSOB, as provided in 49 U.S.C. 46110 and 46111.

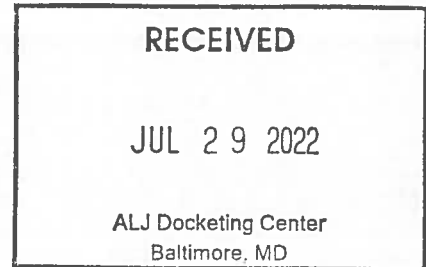
ATTACHMENT 2

July 23, 2022

By First Class and Certified Mail-Return Receipt Requested

ALJ Docketing Center
U.S. Coast Guard
40 S. Gay Street, Room 412
Baltimore, Maryland 21202-4022
ATTN: Hearing Docket Clerk

Re: Determination of Security Threat
Federal Aviation Administration
Airman Certificate Number 003772922 and
First Class Medical Certificate 2000009218809



Dear Hearing Docket Clerk,

This letter serves as initial notification to a review request of TSA's Determination of Security threat and FAA Order under 107(b) by an ALJ, pursuant to Section 207 of the Interim Redress Procedures for FAA Certificate Holders-U.S. Citizens, U.S. Non-Citizen Nationals, and Lawful Permanent Residents.

The letter of Initial Notification of a Security Threat Determination was based upon materials available to the Transportation Security Administration which Thomas L. Bush, Acting Executive Assistant Administrator personally reviewed and pursuant to Title 49 United States Code Section 46111 and determined that I pose, or am suspected of posing, a security threat. Accordingly, TSA initiated the process to revoke all certificates issued to me by the Federal Aviation Administration.

There are several issues that must be considered by the ALJ.
Issues 1 and 2 hopefully shows good cause for the extension of the 60 day request deadline.
Issue 3 outlines my reasoning for further delay.
Issue 4 is a request for information that Thomas L. Bush, TSA Acting Executive Assistant Administrator used for the Determination of Security Threat Notification.
Issue 5 addresses my personal history with 28 character reference letters.
Issue 6 is a request for an in person hearing.
Issue 7 is a request for an unclassified summary of classified evidence upon which the Determination of Security Threat was based.

I have included this notice, a copy of the Determination of Security Threat, FAA Revocation Order, and character reference letters.

Issue 1. I was unable to effectively respond to the initial notification of a security threat determination on March 23, 2021 given the 60 day deadline. I had no access to legal assistance, legal library or even writing paper. For this reason, I request an extension of the due date.

Issue 2. The public defender I was assigned was unable to help me with responding to the initial notification of a security threat determination. I had actually written a draft for him to review and serve, but he was unable to assist me any further than an affidavit. For this reason, I request an extension as well.

Issue 3. Because of the revocation of my pilot certificates, I have been left unemployable in my previous line of work. I am unable to afford legal counsel forcing me to draft this notice Pro Se. This has extended my response time to the Initial Notification of Determination of Security Threat. It takes time to help me better understand these legal proceedings.

Issue 4. I request the information that Thomas L. Bush personally reviewed. I can not raise any objections unless I also review what was available to him and the Transportation Security Administration. I will be able to articulate an appropriate rebuttal once I can review that information.

Issue 5. I am not a security threat. I do understand that TSA's reaction was preemptive. I am a hard working aviator passionate about safety and service. My aviation career is filled with instances of such. The attached character reference letters in Addendum A hopefully demonstrate.

I am an Eagle Scout. It was in the Boy Scouts of America where I decided to be a pilot. I was in the Civil Air Patrol Cadet program in high school where I achieved the rank of Cadet Chief Master Sergeant. I spent 2 years in the United Kingdom doing missionary work and helping people recover from drug and alcohol addiction. I worked at an aircraft electronics shop for 18 months learning about precision and integrity. I have refueled every aircraft from Cessna 172s to Airbus 300s. I have participated in various volunteer emergency organizations such as Aerobridge as ground support, liaison and relief pilot positions. None of my flight students failed their practical flight tests. I participated in the FAA Safety Wings Program to help stay current on events and regulations. I attend seminars when I can. I still attend aviation seminars even when I have no duty as a pilot with revoked certificates.

Issue 6. I request an in person hearing before the ALJ. I understand that significant time has passed, but I hope issues 1 - 3 show that failure to file was excusable. I am now able to attend an in person hearing. I hope it shows good cause for an extension of the time limit.

Issue 7. I request an unclassified summary of classified evidence upon which the Determination of Security Threat was based. I specifically request the information that Thomas L. Bush, Acting Executive Assistant Administrator personally reviewed.

Thank you for your time and consideration.

Sincerely,
Ethan Jeffrey Collins

Addendum A. Character Reference Letters

ATTACHMENT 3

**UNITED STATES OF AMERICA
DEPARTMENT OF HOMELAND SECURITY
TRANSPORTATION SECURITY ADMINISTRATION**

In the Matter of:

ETHAN J. COLLINS

Respondent

Docket Number:

22-TSA-0105

**HON. BRIAN J. CURLEY
Administrative Law Judge**

**MEMORANDUM OF PRE-HEARING
CONFERENCE, SCHEDULING ORDER, AND
NOTICE OF HEARING**

On October 4, 2022, I convened a pre-hearing telephone conference pursuant to 49 C.F.R. § 1503.607(a)(1). Brian Itami, Esq., appeared for the Transportation Security Administration (TSA). Ethan J. Collins (Respondent) appeared on his own behalf (*pro se*).

At the outset of the conference, I advised the parties of my role as an independent trier of fact, generally explained the nature of the proceedings, and ascertained what questions, if any, the parties had regarding the matters under discussion. I also advised Respondent that this matter is strictly civil in nature and does not include any criminal implications. In response to Respondent's questions, I advised he has the right to counsel, but at no expense to the government.

An overview of the discovery process was also discussed. I informed the parties they may propound discovery and discussed the discovery regulations contained in 49 C.F.R. § 1503.633. The parties may access the regulations applicable to this proceeding at <https://www.ecfr.gov/>, specifically Title 49 C.F.R. Part 1503. When conducting

discovery, or filing any motions, the parties should strictly adhere to the deadlines scheduled below.

Although not discussed during the conference call, the parties shall immediately advise my office if Sensitive Security Information (SSI) becomes an issue at any point in this case.¹ If SSI becomes an issue, the parties should follow all instructions in Attachment 1 of this order.

After discussion of the parties' availability, the parties agreed to a hearing in Baltimore, Maryland, at 10:00a.m., on May 2, 2023 at the U.S. Customs House, 40 S. Gay Street, Room 412, Baltimore, MD, 21202.

I also encouraged the parties to keep the lines of communication open and to try to resolve any issues between themselves. *See generally* 49 C.F.R. § 1503.425. Finally, Respondent requested documents be served via U.S. Mail, but TSA agreed to receive materials by electronic service. Lastly, I noted Respondent's September 27, 2022 motion to reschedule the prehearing conference was **DENIED**.

When questioned the parties expressed satisfaction at the conclusion of the pre-hearing conference as to their respective understanding of the pre-hearing conference proceedings.

WHEREFORE,

ORDER

¹ SSI includes information as described at:
<https://safe.menlosecurity.com/doc/docview/viewer/docN5DF806FB76A1ea74312ec84d4b290f74410afc7eb4cba6e0695f23ba2d7a5e199dda1683aeb2>.

IT IS HEREBY ORDERED, unless already supplied, TSA will provide Respondent with a written explanation and with all releasable materials used to form the basis for the Determination of Security Threat no later than **Friday, October 14, 2022**.

IT IS FURTHER ORDERED, the parties shall file all motions related to discovery and complete discovery no later than **November 14, 2022**.

IT IS FURTHER ORDERED, the parties shall file all responses to discovery motions no later than **December 14, 2022**.

IT IS FURTHER ORDERED, the parties shall exchange their final list of witnesses and exhibits (including a copy of each exhibit) no later than **January 20, 2023**. The parties shall also provide the undersigned and the Docketing Center with their final list of witnesses and exhibits; however, they do not need to provide a copy of the exhibits. The information should include a list of witnesses, with the name and a short summary of expected testimony, as well as a list of exhibits. Each exhibit shall be marked (i.e. TSA Ex. 1, 2, 3... or Resp't Ex. A, B, C...). Unless good cause is shown for not exchanging an exhibit, that exhibit will not be admitted at the hearing.

IT IS FURTHER ORDERED, the parties shall file all other motions not related to discovery no later than **February 20, 2023**. This does not include a motion for decision or a motion for disqualification.

IT IS FURTHER ORDERED, the parties shall file all responses to motions not related to discovery no later than **March 20, 2023**.

IT IS FURTHER ORDERED every motion must contain certification the parties conferred with each other prior to filing the motion.

IT IS FURTHER ORDERED, the matter is set for hearing on **Tuesday, May 2, 2023, at 10:00 a.m., U.S. Customs House, 40 S. Gay Street, Room 412, Baltimore, Maryland, 21202**. If necessary, the hearing will continue on **Wednesday, May 3, 2023**.

Done and dated this 6th of October, 2022 at
New Orleans, LA

A handwritten signature in black ink, appearing to read "B. Curley", with a stylized flourish at the end.

BRIAN J. CURLEY
Administrative Law Judge
United States Coast Guard

Certificate of Service

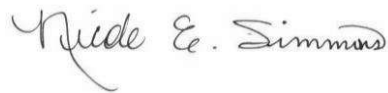
I hereby certify that I have served the foregoing **SCHEDULING ORDER** upon the following parties (or designated representatives) at the addresses indicated below.

Brian Itami, Esq.
Transportation Security Administration
601 South 12th St.
Arlington, VA 20598
TSAOCCSTAO@tsa.dhs.gov
Sent by Email

Ethan J. Collins
Sent by Express Mail

ALJ Docketing Center
U.S. Coast Guard
40 S. Gay Street, Room 412
Baltimore, MD 21202
PHONE: (410) 962-7434
FAX: (410) 962-1746
aljdocketcenter@uscg.mil
Sent by Email

Done and dated this 6th of October, 2022, at
New Orleans, LA



Nicole Simmons
Paralegal Specialist

ATTACHMENT 4

**UNITED STATES OF AMERICA
DEPARTMENT OF HOMELAND SECURITY
TRANSPORTATION SECURITY ADMINISTRATION**

In the Matter of:

Ethan J. Collins

Respondent.

Docket No.: 22-TSA-0105

**Judge Brian Curley
Administrative Law Judge**

NOTICE OF APPEARANCE OF GEOFFREY KELLY CHAMBERS

Comes now Geoffrey Kelly Chambers, a South Carolina licensed attorney and files this appearance as counsel on behalf of Ethan Collins. Please include Geoffrey Chambers in any and all future correspondence and communications regarding this matter.

By: 

Geoffrey K. Chambers
411 Walnut Street, #10646
Green Cove Springs, FL 32043
O: (864) 508-0899
C: (828) 556-5893
Email: Geoffrey@CPERLGroup.com
SC Bar No: 78415

ATTORNEY FOR RESPONDENT

Columbia, South Carolina

April 30, 2023

**UNITED STATES OF AMERICA
DEPARTMENT OF HOMELAND SECURITY
TRANSPORTATION SECURITY ADMINISTRATION**

In the Matter of:

Ethan J. Collins

Respondent.

Docket No.: 22-TSA-0105

**Judge Brian Curley
Administrative Law Judge**

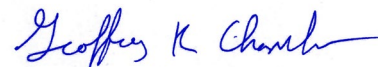
CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2023, a copy of the foregoing Notice of Appearance of Geoffrey Chambers was served on each of the parties of record in this cause by email to:

ALJ Docketing Center Baltimore
U.S. Customs House
40 S. Gay Street, Room 412
Baltimore, MD 21202-4022
(via email: aljdocket@uscg.mil)

USCG Administrative Law Judge New Orleans
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500 Poydras Street, Suite 1211
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Fax: 504-671-2212
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Mr. Brian Itami, Esq. and Ms. Rachel Gerstenfeld
Intelligence and Vetting Operations
Transportation Security Administration
(202) 236-9078 (cell)
(703) 414-7459 (office)
(via email: <TSAOCCSTAO@tsa.dhs.gov>)



Geoffrey K. Chambers

ATTACHMENT 5

**UNITED STATES OF AMERICA
DEPARTMENT OF HOMELAND SECURITY
TRANSPORTATION SECURITY ADMINISTRATION**

In the Matter of:

Ethan Collins,

Respondent

Docket Number:

22-TSA-0105

DECISION AND ORDER

Issued on: May 30, 2024

Issued by: Brian Curley, Administrative Law Judge

Appearances:

For Complainant:

Brian Itami, Esq.
Rachel Gerstenfeld, Esq.
Transportation Security Administration
Chief Counsel – Mail Stop 02
6595 Springfield Center Dr.
Springfield, VA 20598-6002

For Respondent:

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411 Walnut St. #10646
Green Cove Springs, FL 32043

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This matter comes before me on Ethan Collins' (Respondent) request for review of a Transportation Security Administration (TSA) Determination of Security Threat (Determination) finding he poses or is suspected of posing a security threat to transportation security.¹ Upon issuing the Determination, TSA initiated procedures to revoke all of Respondent's Federal Aviation Administration (FAA) airmen certificates. After holding a hearing and considering the record as a whole, I **AFFIRM** TSA's revocation of Respondent's FAA certificates. TSA properly followed its regulations and did not abuse its discretion in revoking Respondent's FAA certificates.

I. PROCEDURAL BACKGROUND

On March 23, 2021, TSA issued a Determination notifying Respondent TSA suspected him of posing a security threat. See 49 U.S.C. 46111; (Resp't. Request for Review; TSA Ex. 1 at 0004).² TSA based this determination on Respondent's alleged plans to attack the electrical power grid and government facilities, and other untrustworthy conduct that poses a threat to airline and passenger safety. (Tr. 1 at 22-23).³ Accordingly, TSA Requested the Federal Aviation Administration (FAA) revoke all of Respondent's FAA certificates. (TSA Ex. 1 at 0004). The FAA revoked all of Respondent's FAA certificates on March 26, 2021. (Id. at 0001)

¹ On July 29, 2022, the ALJ Docketing Center received Respondent's Request for Review. Within the Request for Review, Respondent included various documents.

² Citation referencing TSA Exhibits are "TSA Ex. ____" and Respondent Exhibits are "Resp't Ex. ____." TSA exhibits were Bates Numbered, and the Bates Number will be provided when citing to TSA exhibits.

³ The hearing spanned two days. Citations referencing the transcript for the first day are "Tr. 1 at ____" and the second day are "Tr. 2 at ____."

Respondent filed a timely Request for Review (Request) of TSA's Determination with the Administrative Law Judge (ALJ) Docketing Center. See Interim Redress Procedures § 107 (b).⁴ On August 4, 2022, Chief ALJ Brudzinski assigned me this case for review and disposition.

I held a hearing for this matter on May 2-3, 2023, in Baltimore, Maryland. During the hearing, attorneys Brian Itami and Rachel Gerstenfeld represented TSA. Attorney Geoffrey Chambers represented Respondent. TSA offered nineteen exhibits into evidence, all of which were admitted, and presented the testimony of three witnesses. Respondent offered one exhibit into evidence, which was admitted, and presented the testimony of one witness. A complete list of exhibits and witnesses is contained in Attachment A.

On July 17, 2023, TSA submitted their Brief for the Transportation Security Administration and Proposed Findings of Fact and Conclusions of Law (TSA PHB). I permitted Respondent's attorney to file his Proposed Finding of Fact and Closing Arguments of Ethan Collins on December 14, 2023, significantly after the original time allotted to file closing briefs. TSA filed a reply brief on January 16, 2024. The record is now closed, and the case is ripe to issue a decision.

II. FINDING OF FACT

Respondent's Aviation History

1. As of March 26, 2021, Respondent held a Commercial Pilots Certificate, Remote Pilot Certificate, Flight Instructor Certificate, Ground Instructor Certificate, and airman medical certificates. (TSA Ex. 1 at 0001).
2. In January 2020, Respondent became a Line Captain for Boutique Air where he flew passengers. (Id.; Tr. 2 at 9).

⁴ These proceeding are brought under 49 U.S.C. § 46111. Final rules have not yet been established, but TSA has provided Interim Redress Procedures for FAA Certificate Holders – U.S. Citizens.

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3. The Covid-19 pandemic impacted airlines greatly, as airlines experienced a drop in flights since fewer passengers were flying. (Id.).
4. Due to the lack of passengers, Respondent's flight hours and pay were significantly cut at Boutique Air by March 2020. (Id.).

Respondent's Plans to Attack Electric and Government Facilities

5. Following the Covid-19 shutdowns and restrictions, Respondent became increasingly distrustful and angry towards the government and law enforcement. (TSA Ex. 1 at 0084-85).

Planning

6. In early 2020, Respondent began to formulate a plan to sabotage the electrical power grid in Denver, Colorado. (TSA Ex. 1 at 0084-84; Resp't A at 15).
7. Respondent felt his experience as a pilot provided him familiarity with turbines, which would assist with his ability to take down natural gas turbines used to produce electricity. (Id.).
8. Respondent also identified the Federal Reserve Building in Denver, Colorado and several police stations as potential targets. (Id.; Tr. 1 at 76).
9. Respondent made detailed drawings and a list of the targets, actions, and materials he would need to carry out these attacks. (TSA Ex. 3 at 0159-0208).
10. While Respondent disagrees with the terrorist group ISIS' ideology and use of torture, rape, and murder, he does admire their conviction and the decisive action they took to form their own society. (TSA Ex. 1 at 0086).
11. Respondent believes terrorists are those who intentionally target innocent civilians, not those who target only government and law enforcement facilities. (Id.).
12. Respondent conducted reconnaissance of locations he planned to attack, and researched methods needed to break into security facilities. (TSA Ex. 3 at 0198-0200, 0207-08; Resp't Ex. A at 17-18).

Group Affiliation

13. In the Spring and Summer of 2020, Respondent began to associate with far-right extremist anti-government organizations who might help support an attack on a government facility. (Tr. 1 at 76-77; Tr. 2 at 17. 35-36; Resp't A at 5).
14. In the Spring and Summer of 2020, Respondent attended rallies in Denver, Colorado with the United American Defense Force (UADF). (Tr. 1 at 76-77; Tr. 2 at 17. 35-36; Tr. 2 at 17; Resp't A at 5).
15. Respondent received marksmanship training through the UADF and would often wear a Kevlar helmet and body armor to their protests. (Tr. 1 at 175; Tr. 2 at 36-39; Resp't A at 5).
16. Respondent discontinued association with UADF because it did not harbor his anti-government views and was a pro-police organization. (Tr. 1 at 175; Tr. 2 at 17; Resp't A at 5).
17. In October 2020, Respondent reached out to the Council of Colorado, an organization linked to the Boogaloo Boys. (Tr. 1 at 76; Tr. 2 at 17; Resp't A at 5).
18. The Boogaloo Boys is a far-right extremist anti-government movement known for their advocacy of violence, to include such acts as: participating in the January 6th attack on the U.S. Capital, murder of a police officer in California, and the plan to kidnap the Michigan governor. (Tr. 1 at 77).
19. Respondent presented some of his ideas to the Council of Colorado, such as his desire to attack the Denver power grid. (Tr. 1 at 78; Tr. 2 at 32-33; TSA Ex. 8 at 0371-72).
20. Respondent was unable to find anyone in the Council of Colorado to assist him with his plans and he was disappointed the group was poorly organized, and only engaged in talk and not action. (Tr. 1 at 78; Tr. 2 at 32-33; TSA Ex. 8 at 0371-72).

Respondent's Actions Result in Criminal Conviction

CBP Polygraph and FBI Raid

21. With his work at Boutique Air decreasing, Respondent began to look for other jobs and decided to apply for a job with Customs and Border Patrol (CBP) in May 2020. (Tr. 2 at 9-10; TSA Ex. 1 at 0084).
22. In January 2021, Respondent participated in an employment interview for CBP, which included a polygraph examination. (Tr. 2 at 10-15; TSA Ex. 1 at 0084).

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23. Respondent failed the polygraph examination because of answers he provided during the terrorism portion of the polygraph. (*Id.*).
24. During the polygraph, Respondent admitted to formulating plans to attack Denver's electrical power grid and other governmental facilities. (TSA Ex. 1 at 0084-84; Resp't A at 15).
25. Respondent wanted the CBP job and thought being candid during the polygraph would allow him to get the job. (Tr. 1 at 79; Tr. 2 at 15-16; TSA Ex. 3 at 0172).
26. As a result of his answers provided during the polygraph, the Federal Bureau of Investigation (FBI) raided Respondent's home on January 29, 2021. (TSA Ex. 1 at 0086-87).
27. During the search, the FBI found a sniper-type rifle, an AR-15 type rifle, 1,920 rounds of ammunition, ballistic vests, helmets, and three firearm silencers. (TSA Ex. 1 at 0087).

Respondent Flees, Capture, and Conviction

28. On the evening of January 29, 2021, Respondent fled his home and loaded his car with food, water, camping gear, firearms, ammunition, and body armor. (Tr. 2 at 45-46; TSA Ex. 3 at 0147-49).
29. Respondent contemplated fleeing the country and possibly trying to get to Mexico or Ukraine. (Tr. 1 at 81; TSA Ex. 3 at 0175).
30. On February 2, 2021, the U.S. Department of Justice filed a criminal complaint indicting Respondent on six counts relating to possession of unregistered silencers and possession of silencers without serial numbers. (TSA Ex. 1 at 0083).
31. On February 8, 2021, an FBI agent discovered Respondent in a remote area of Utah and called local law enforcement who arrested Respondent. (TSA Ex. 3 at 0149; Resp't Ex. A at 21-23).
32. While detained, Respondent was referred for psychotic examination by his attorney, which found Respondent was diagnosed as having Autism Spectrum Disorder (ASD) Level 2. (Resp't Ex. A at 32; Tr. 2. at 13; TSA PHB at 22).
33. ASD Level 2 characteristics present in Respondent include impaired verbal and non-verbal communication (lack of eye contact), abnormal reactions to social overtures from others, and limited initiation of social interactions. (Resp't Ex. A at 32).

34. On November 23, 2021, Respondent plead guilty to a single charge, violating 26 U.S.C. 5861(d), and was sentenced to imprisonment of 18 months. (TSA Ex. 5 at 0240, 8 at 0374, 9 at 083-86).
35. Since his release from incarceration, Respondent has attended court-mandated psychological therapy. (Tr. 2 at 41).
36. Since his release from incarceration, Respondent has not been taking medication or attending group sessions as recommend by the doctor in his physiological evaluation. (Tr. 2 at 39-40).

Other Untrustworthy Conduct

37. On December 12, 2020, Respondent presented himself for screening at a TSA checkpoint at Denver International Airport (DEN). (TSA Ex. 1 at 0032).
38. TSA identified Respondent as requiring additional screening but Respondent initially did not give TSA permission to screen his property. (Tr. 1 at 91-92; TSA Ex. 1 at 0032).
39. Respondent eventually allowed his property to be searched. (TSA Ex. 1 at 0032).
40. Respondent refusal to comply with TSA screening resulted in his Security Identification Display Area (SIDA) badge, issued to him by Boutique Air, being confiscated by law enforcement. (TSA Ex. 1 at 0031-32).
41. Respondent was terminated from Boutique Air January 30, 2021. (TSA Ex. 1 at 0032).

III. ANALYSIS

A. Duties of the Administrative Law Judge

A Request for Review sets forth the issues that may be considered by the ALJ. See Interim Redress Procedures § 107 (b). In Respondent's Request, he asks the ALJ to consider the following:

1. Would like an extension of due date to respond to the March 23, 2023, Determination, given the 60-day timeframe and lack of legal assistance.

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2. Would like an extension of due date to respond to the March 23, 2023, Determination, given his public defender would not assist in this matter.
3. Is unemployed, cannot afford legal counsel, and needs additional time to respond to the Initial Notification of Determination of Security Threat.
4. Request information that the Acting Executive Assistant Administrator used to review his case.
5. Asserts he is not a security threat.
6. Requests an in-person hearing. Believes issues 1-3 shows good cause for extension of time and ability to attend in-person hearing.
7. Request unclassified summary of evidence upon which the Acting Executive Assistant Administrator used to make the Determination.

The central issue I must consider in this case is Request #5, whether Respondent is a security threat or not. The ALJ's review of this issue and TSA's Confirmation of Determination of Security Threat is de novo. See Interim Redress Procedures § 107 (g). The parties may present relevant evidence and the ALJ will consider such evidence when rendering a Decision. Id.

Aside from Request #5, all of these requests are procedural in nature and disposed of in Respondent's favor. Request's #1, #2, #3, and #6 similarly assert since Respondent was unrepresented, he needed additional time to respond to the allegations in TSA's Determination and would like an in-person hearing. Respondent was able to find counsel to represent him and an in-person hearing was held nine months after the case was initially assigned to me. As such, I find Respondent's Requests #1, #2, #3, and #6 were considered and resolved in favor of Respondent. Likewise, Request's #4 and #7 were also considered and resolved in favor of Respondent as those requests ask Respondent be provided the material TSA relied upon

in the Determination. TSA Exhibit 1 contains the materials the TSA Acting Executive Assistant Administrator used to make his Determination in this case; these materials were provided to Respondent.

B. Standard of Review

When deciding if TSA supported its Confirmation of Determination of Security Threat, the burden of proof is on TSA and the ALJ is directed to apply a “preponderance of the evidence” standard. Interim Redress Procedures § 107 (g)(6-7). The burden of proving a fact by a preponderance of the evidence “simply requires the trier of fact ‘to believe that the existence of a fact is more probable than its nonexistence before [he] may find in favor of the party who has the burden to persuade the [judge] of the fact’s existence.’” Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for Southern California, 508 U.S. 602, 622 (1993) (citing In re Winship, 397 U.S. 358, 371-72 (1970). (Harlan, J., concurring) (brackets in original)). Having determined TSA bears the burden to prove Respondent is a security threat, I now address the specifics of this case.

C. Security Threat

TSA is responsible for civil aviation security and assessing threats to transportation. 49 U.S.C. § 114(d), 114(f). If TSA determines a holder of a FAA certificate “poses, or is suspected of posing, a risk to air piracy or terrorism or a threat to airline or passenger safety...,” then TSA can direct the FAA to suspend or revoke their certificates. See 49 U.S.C. 46111(a). The statute enumerates three types of risks TSA may assess when determining if an individual is a security threat: (1) air piracy, (2) terrorism, and (3) threat to airline or passenger safety. Id., In Re Tabbi, TSOB Decision 2011-TSOB-0100 at 11. If TSA determines a pilot possess one of these security

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risks, their FAA pilot's certificates should be revoked. See H.R. Conf. Report No. 108-240 at 152 (July 25, 2003).

In this case, TSA presented evidence indicating Respondent poses a terrorism risk and also a threat to airline or passenger safety. The term terrorism means any activity that:

(A) involves an act that –

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or any State or other subdivision of the United States; and

(B) appears to be intended –

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

6 U.S.C. § 101(18).

The statute and regulations do not outline specifically what constitutes a “threat to airline or passenger safety.” TSA requests these terms be given their general meaning, with respect to aircraft and passengers, “the condition of being safe from undergoing or causing hurt, injury, or loss.” Safety, Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/safety> (last accessed December 12, 2023). I accept TSA's general meaning of this term.

TSA's threat assessments are based on currently available information, but they are prospective in nature. The statute itself calls upon TSA to make a determination if a person

currently “poses” or “is suspected of posing” a security threat. See 49 U.S.C. 46111(a). In order to protect transportation security, it is critical that TSA stop violent acts before they actually occur. (Tr. 1 at 171-72). Important factors to consider when determining if a threat exists, is a person’s intent and capability. (Tr. 1 at 153, 172). When reviewing intent, TSA looks to see if the person took steps toward actualizing violent aims and what is motivating the person to act. (Tr. 1 at 153-155). In regard to capability, does the person have the resources to carry out the plans. (Id.). Pilots holding FAA certifications have unescorted access to the cockpits of aircraft and the security of aircraft. (Tr. 1 at 151). Trustworthiness of pilots and flight crews are very important factors to consider in the context of threat assessments. (Tr. 1 at 151-53, 172); Concepcion v TSA, 709 Fed. Appx 876, 878 (9th Cir. 2017).

D. TSA Asserts Respondent’s Credentials Should be Revoked

TSA requested the FAA revoke Respondent’s certificates upon making a determination that he poses a threat to transportation security. During the hearing, TSA presented evidence seeking to justify its security threat determination, and asserts they appropriately considered evidence indicating Respondent poses or is suspected of posing a security threat. (TSA PHB at 9-17). TSA’s puts forth its argument that Respondent is a security threat in two parts:

1. Respondent’s plans to attack electric and government facilities indicates he poses a risk of terrorism.
2. Respondent’s untrustworthy conduct shows he poses a threat to airline and passenger safety.
(Id.)

I will address each of TSA’s main arguments below.

i. Respondent's plans to attack electric and government facilities indicates he poses a risk of terrorism.

TSA's case is based primarily on evidence showing Respondent engaged in plans to attack government facilities. In addition to planning such attacks, he joined far-right extremist organizations and sought outside assistance with his plans. Respondent's activities would eventually come under scrutiny of the FBI and resulted in an 18-month prison sentence for illegal firearms violations.

Initial Planning

Respondent received his commercial pilot's license in 2018 and was hired as a line captain for Boutique Air in January 2020. (Tr. 2 at 8-9; Resp't Ex. A at 10). The Covid-19 pandemic impacted airlines greatly and, due to the lack of passengers, Boutique Air significantly cut Respondent's flight hours and pay in March 2020. (*Id.*). Following the Covid-19 shutdowns and restrictions, Respondent became increasingly distrustful and angry towards government and law enforcement. (TSA Ex. 1 at 0084-85).

Acting upon this anger, in early 2020, Respondent began to formulate a plan to sabotage the electrical power grid in Denver, Colorado. (TSA Ex. 1 at 0084-84; Resp't A at 15). Respondent felt his experience as a pilot provided him familiarity with turbines, which would assist with his ability to take down natural gas turbines. (*Id.*). Respondent also identified the Federal Reserve Building in Denver, Colorado and several police stations as potential targets. (*Id.*; Tr. 1 at 76). Respondent made detailed drawings and a list of the targets, actions, and materials he would need to carry out these attacks. (TSA Ex. 3 at 0159-0208). Respondent

conducted reconnaissance of locations he planned to attack and researched methods needed to break into security facilities. (TSA Ex. 3 at 0198-0200, 0207-08; Resp't Ex. A at 17-18).

Group Affiliation

In addition to researching and planning to attack a government facility himself, Respondent began to explore working with others to achieve his goals. In the Spring and Summer of 2020, Respondent began to associate with far-right extremist anti-government organizations who might help support an attack on a government facility. (Tr. 1 at 76-77; Tr. 2 at 17. 35-36; Resp't A at 5). He initially attended rallies in the Denver, Colorado with the United American Defense Force (UADF). (Tr. 1 at 76-77; Tr. 2 at 17. 35-36; Tr. 2 at 17; Resp't A at 5). Through the UADF, Respondent received marksmanship training and would often wear a Kevlar helmet and body armor to their protests. (Tr. 1 at 175; Tr. 2 at 36-39; Resp't A at 5). Respondent enjoyed the wearing of this equipment as it made him feel tough and assisted in intimidating people at protests. (Tr. 2 at 36-39). However, Respondent discontinued association with UADF because it did not harbor his anti-government views and was pro-police blue lives matter organization. (Tr. 1 at 175; Tr. 2 at 17; Resp't A at 5).

Seeking to find a group more inclined to his views, in October 2020, Respondent reached out to the Council of Colorado, an organization linked to the Boogaloo Boys. (Tr. 1 at 76; Tr. 2 at 17; Resp't A at 5). The Boogaloo Boys is a far-right extremist anti-government movement known for their advocacy of violence, to include such acts as: participating in the January 6th attack on the U.S. Capital, murder of a police officer in California, and the plan to kidnap the Michigan governor. (Tr. 1 at 77). The Boogaloo Boy are known for wearing Hawaiian shirts and military fatigues, outfits Respondent would now wear to rallies. (Tr. 1 at 77). Respondent

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presented some of his ideas of attacking governmental facilities to members of the Council of Colorado. (Tr. 1 at 78; Tr. 2 at 32-33; TSA Ex. 8 at 0371-72). However, Respondent was unable to find anyone in the Council of Colorado to assist him with his plans. (Tr. 1 at 78; Tr. 2 at 32-33; TSA Ex. 8 at 0371-72). Respondent was disappointed the group was so poorly organized, and only engaged in talk and not action. (Id.)

FBI Raid, Escape, and Conviction

With his work at Boutique Air decreasing, Respondent began to look for other jobs and decided to apply for a job with CBP in May 2020. (Tr. 2 at 9-10; TSA Ex. 1 at 0084). In January 2021, Respondent participated in an employment interview for CBP, which included a polygraph examination. (Tr. 2 at 10-15; TSA Ex. 1 at 0084). Respondent failed the polygraph examination because of answers he provided during the terrorism portion of the polygraph. (Id.).

During the polygraph, Respondent admitted to formulating plans to attack Denver's electrical power grid and other governmental facilities. (TSA Ex. 1 at 0084-84; Resp't A at 15). Respondent wanted the CBP job and thought being candid during the polygraph would allow him to get the job. (Tr. 1 at 79; Tr. 2 at 15-16; TSA Ex. 3 at 0172).

As a result of his answers provided during the polygraph, the FBI raided Respondent's home on January 29, 2021. (TSA Ex. 1 at 0086-87). During the search, the FBI found a sniper-type rifle, an AR-15 type rifle, 1920 rounds of ammunition, ballistic vests, helmets, and three firearm silencers. (TSA Ex. 1 at 0087). On the evening of January 29, 2021, Respondent fled his home and loaded his car with food, water, camping gear, firearms, ammunition, and body armor. (Tr. 2 at 45-47; TSA Ex. 3 at 0147-49). Respondent contemplated fleeing the country and possibly trying to get to Mexico or Ukraine. (Tr. 1 at 81; TSA Ex. 3 at 0175).

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On February 2, 2021, the U.S. Department of Justice filed a criminal complaint indicting Respondent on six counts relating to possession of unregistered silencers and possession of silencers without serial numbers. (TSA Ex. 1 at 0083). On February 8, 2021, an FBI agent discovered Respondent in a remote area of Utah and called local law enforcement who arrested Respondent. (TSA Ex. 3 at 0149; Resp't Ex. A at 21-23).

On November 23, 2021, Respondent plead guilty to a single charge of violating 26 U.S.C. 5861(d) and was sentenced to imprisonment of 18 months. (TSA Ex. 5 at 0240, 8 at 0374, 9 at 083-86). Since his release from incarceration, Respondent has attended court-mandated psychological therapy. (Tr. 2 at 41). However, Respondent has not been taking medication or attending group sessions as recommend by the doctor in his physiological evaluation. (Tr. 2 at 39-40).

Respondent Demonstrated Intent and Capability to Carryout Plan

TSA argues the above evidence demonstrates Respondent did intend to proceed with a plot against the power grid and government facilities, showing he poses or is suspected of posing a risk to terrorism. He conducted reconnaissance at targets, made detailed drawing showing how to attack facilities, researched how to bypass access control measures, and took other planning steps. TSA admits that by himself, Respondent did not have the capability to carry out the precise larger plans he set forth in his journals. (Tr. 1 at 86, 126; TSA Ex. 10 at 0389). However, this does not mean Respondent did not intend to carry out this or a lessor involved attack. He took concrete steps, such as joining organization he believed were liked minded and tried to recruit people to join in on his plans to attack facilities.

Even if he was unable to convince others to carry out his grander plans, Respondent still had the ability to carry out a scaled down plan. He had amassed a stockpile of weapons and had specifically stated that his knowledge gained as a pilot could assist him with targeting turbines. It is reasonable to assume Respondent might formulate other planned attacks by using information he knew about aviation security and by taking advantage of access he has to aircrafts and airports granted to him by holding FAA certificates.

ii. Respondent's untrustworthy conduct poses a threat to airline and passenger safety.

In addition to Respondent posing or being suspected of posing a risk to terrorism, TSA also asserts Respondent's untrustworthy conduct poses a threat to airline and passenger safety. TSA argues a person who plots terrorist attacks, possess illegal firearms, and flees from law enforcement cannot be entrusted with access to the cockpit of an aircraft.

Another example of Respondent's actions being detrimental to transportation security involve an incident on December 12, 2020, when Respondent presented himself for screening at a TSA checkpoint at Denver International Airport (DEN). (TSA Ex. 1 at 0032). Respondent was identified a requiring additional screening and Respondent said he did not give TSA permission to screen his property. (Tr. 1 at 91-92; TSA Ex. 1 at 0032). Respondent's refusal to comply with TSA's initial screening request resulted in his Security Identification Display Area (SIDA) badge, issued to him by Boutique Air, being confiscated by law enforcement. (TSA Ex. 1 at 0031-32). Boutique Air fired Respondent on January 30, 2021. (TSA Ex. 1 at 0032).

TSA argues Respondent's reactions to the screening process, designed to keep crew and passengers safe, are inconsistent with the roles a pilot should take when contributing to aircraft safety. All these factors establish Respondent poses a threat to airline or passenger safety.

E. Respondent's Rebuttal

Respondent's primary rebuttal to the government's allegations is he had no intention to commit any violent action and he is a victim of mistaken motives. Most of these mistaken motives can be attributed to the fact that Respondent is autistic. (Respondent's Exhibit A is a Forensic Neuropsychology Evaluation (Evaluation)). Respondent's criminal defense attorney commissioned the Evaluation in preparation for his criminal trial. (Resp't Ex. A at 4). Within that Evaluation, Respondent was diagnosed as having Autism Spectrum Disorder (ASD) Level 2. (Resp't Ex. A at 32; Tr. 2. at 13; TSA PHB at 22). ASD Level 2 characteristics include impaired verbal and non-verbal communication (lack of eye contact), abnormal reactions to social overtures from other, and limited initiation of social interactions. (Resp't Ex. A at 32). The Evaluation concludes Respondent's alarming affiliation with radical groups and his distrust of the government are consistent with the long-standing presence of ASD. (Resp't Ex. A at 35). The Evaluation states "[e]vidence indicates that Mr. Collins does not pose an ongoing threat to the safety of himself or others in the community." (*Id.* at 36).

Respondent believes his autism, which challenges his understanding of social cues, results in him being the victim of mistaken motives on occasion. For example, Respondent argues the December 12, 2020, security checkpoint incident was not some expression of Respondent's anti-government views. Instead, Respondent asserts this action was a non-violent

and legitimate way for him to express his frustration at being frequently checked at TSA screenings; and these additional screenings were initiated by Respondent's irregular movements caused by his autism.

Respondent says he knows difference between reality and imagination. (Tr. 2 at 13-14). All plans he made to attack governmental properties were just "imagined thoughts." (Tr. 2 at 15). In his post hearing brief, Respondent asserts the bad ideas written in his journal were just that, bad ideas, they were not actions. He was not violent during his arrest and there is no evidence he made efforts to actually recruit people online to carry out plans listed in his journal. The items written in the journal were not meant to represent what Respondent actually wanted, but instead was "shorthand notes [which] serve as a good thought exercise and tool for comparing known bad ideas to what should be done." (Resp't PHB at 1). These notes were used as evidence against him, but instead they were just the musing of an autistic person.

The brief also states that there is no evidence showing Respondent committed any violent acts. While TSA asserts Respondent tried to recruit people online, he was never charged with trying to recruit people or engage in any violent acts. While Respondent did engage with some different groups, Respondent asserts "the interactions with the groups as almost an academic exercise in a time when he had time on his hands and was actively witnessing history." (Resp't PHB at 10-11). If Respondent was a terrorist or tried to solicit someone to commit a violent act, the federal law enforcement would have charged him.

Respondent argues the notes he made show all sorts of imaginary, real, good, and bad ideas; and he knows the difference between good and bad ideas. He is a reasonable person and requests the undersigned allow him a pathway to keep his FAA certificates.

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F. Respondent Poses a Threat to Transportation Security

As set forth earlier in this decision, the main determination I need to make is if Respondent is a security threat because he poses, or is suspected of posing, a risk to terrorism or a threat to airline or passenger safety. Despite Respondent's contention that his autism resulted in him being a victim of mistaken motives, TSA did show, by a preponderance of the evidence, Respondent is a security threat.

Respondent is Suspected of Posing a Risk to Terrorism

As stated before, Respondent is suspected of posing a risk to terrorism. Terrorism includes engaging in an act that is potentially destructive to critical infrastructure for the purpose of intimidating, influencing, or affecting the conduct of a government. 6 U.S.C. § 101(18). In this case, TSA presented evidence showing Respondent began to formulate plans to sabotage the electrical grid of Denver and joined far-right extremist anti-government organizations where he sought support to help attack government organizations. (TSA Ex. 1 at 0076-84; TSA Ex. 3 at 0159-208; Resp't A at 15; Tr. 2 at 17, 35-36). After admitting to CBP he formulated plans to attack Denver's power grid, the FBI raided his home and found a sniper-type rifle, an AR-15 type rifle, 1920 rounds of ammunition, ballistic vests, helmets, and three firearm silencers. (TSA Ex. 1 at 0084-87; Resp't A at 15). Respondent fled the FBI and went on the run in a car loaded with food, water, camping gear, firearms, ammunition, and body armor. (Tr. 2 at 45-46; TSA Ex. 3 at 0147-49). Respondent did not turn himself in, but instead was caught by the FBI and sentenced to 18 months in prison for illegal possession of a silencer.

These actions were perpetrated by Respondent in an attempt to intimidate or influence the government of the United States. Respondent became increasingly distrustful and angry with the

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government following the Covid-19 pandemic shutdown and restrictions, and he wanted to take some action because of this. (TSA Ex. 1 at 0084-85). Prior to the hearing, Respondent stated that he disagrees with the terrorist group ISIS' ideology and use of torture, rape, and murder, but he does admire their conviction and the decisive action they took to form their own society. (TSA Ex. 1 at 0086). He went on to state he believes terrorists are those who intentionally target innocent civilians, not those who target only government and law enforcement facilities. (Id.). Respondent is incorrect, terrorism does include those who intend to target government law enforcement facilities. While Respondent fortunately was unable to fulfill on any of the plans he drafted, TSA has proved he is suspected of posing a threat to terrorism.

Respondent contends since the FBI never proceeded to prosecute him with a terrorism charge, he should not be suspected of posing a risk to terrorism in this case. This is also incorrect. There are many different reasons why charges are dropped, and parties plead to lesser offenses in criminal matters. A key factor to consider is the burden of proof. In criminal cases the defendant must be found guilty by proof beyond a reasonable doubt. In this case, the burden of proof only required TSA establish the facts by a preponderance of the evidence. Here, TSA established by preponderant evidence Respondent poses, or is suspected of posing, a risk to terrorism.

Respondent is Suspected of Posing a Risk to Airline or Passenger Safety

In addition, TSA established Respondent is suspected of posing a threat to airline or passenger safety. Clearly, the factors which establish Respondent is a risk for terrorism also fall within and show Respondent also poses a threat to airline or passenger safety. One of Respondent's arguments against the terrorism charge is that he had no capability to carry out the

plans he desired. While Respondent's plan to attack governmental facilities involved ground access, as a pilot, Respondent does have the capability to attack facilities via the air. The worst terrorist attacks against the United States were perpetrated by terrorists flying airplanes. With their access and training, pilots are uniquely positioned to exploit security measures and cause harm to an airplane and its passengers. (Tr. A1 at 152). Any such attack would certainly pose a threat to airline or passenger safety.

While not as severe as the terrorism allegations levied against him, TSA showed Respondent engaged in other untrustworthy actions which demonstrate he poses a potential threat to airline or passenger safety. On December 12, 2020, Respondent refused to allow TSA permission to screen his property while entering the Denver airport. (TSA Ex. 1 at 0032). While he would eventually permit TSA to screen him, this disruption resulted in his SIDA badge being confiscated and then shortly after being terminated from his employer, Boutique Air. (TSA Ex. 1 at 0031-32). Respondent argues he felt like he was being singled out by TSA and this is why he did not initially submit to screening. I disagree, this infraction is inconsistent with the roles a pilot should take and compounds the concerns about Respondent. The screening process is designed to keep airplane crew and passengers safe. (TSA Ex. 8 at 0369-70; Tr. 1 at 24). Respondent's frustration and unwillingness to subject himself to the screening process is worrisome and indicative of Respondent's disregard for airline safety. The preponderance of the evidence shows Respondent poses or is suspected of posing a threat to airline or passenger safety.

Respondent's Autism Diagnoses Does Not Negate his Security Threat

Respondent's primary counter to TSA's case is that his autism has resulted in him being a victim of mistaken motives and any bad actions he wrote about are imaginary. But, despite Respondent's diagnosis of autism, I find Respondent's actions do warrant a finding that he poses or is suspected of posing a terrorism threat and threat to airline or passenger safety.

Respondent argues the notes he jotted down were just imaginary, were not actionable, and he is not a threat to airline safety. Respondent states, "[h]e did nothing beyond the realm of autistic curiosity, thinking of various options and writing them down instead of keeping them in his head." (Resp't PHB at 4). I disagree. The record is full of evidence showing Respondent took actionable steps, not just imaginary, which could reasonably be considered to show he is a terrorist threat or security threat. For example, Respondent began to associate with far-right extremist anti-government organizations, he attended rallies with these extremist organizations, he wore body armor and other gear to appear intimidating while at these protests, he received marksmanship training from these organizations, and he presented some of his ideas on how to attack the power grid to members of these organizations.

The above actions were more than mere "autistic curiosity." During Respondent's criminal sentencing hearing, the judge stated this is not a fantasy, this is not a comic book. (TSA Ex. 8 at 0372). Further, the judge stated Respondent "took a path and you grew with it and you experimented with it." (TSA Ex 8 at 0354-55). That judge believed Respondent's overall conduct merited an upwards sentence to the singular charge of the illegal silencer before him, resulting in Respondent getting sentenced to 18 months in prison. (Id. at 0373). I concur with

the sentencing judge. While Respondent did not actually fulfill his plans to attack government infrastructure, he did engage in many real actions which indicate he is a security threat.

In his post hearing brief, Respondent asserts he knows the difference between good and bad ideas. However, the evidence shows he had plenty of bad ideas and acted upon them. And, even today, I am not convinced Respondent knows the difference between good and bad ideas. During the hearing, Respondent was asked when and why he stopped researching how to attack power grids. He said he stopped researching such things after the January 6th attack on the U.S. Capitol. While the attack on the Capital was a “novel idea” it “shook some sense through all of us.” (Tr. 2 at 34). Respondent stated he thought the Capital attackers “overdid it a little bit” and he “didn’t fully support them.” (Id.). Even now, after serving 18 months in prison and testifying at a hearing involving the revocation of his FAA credentials, Respondent states the Capital attack was a novel idea and maybe the attackers overdid a little bit. Respondent harbors dangerous ideas and he is a security threat, particularly if given access to an aircraft as a pilot. Again, I agree with the sentencing judge when he stated, Respondent “didn’t have the ability to pull it off [terrorist attack], but if those people [in the Council of Colorado] had taken an interest in your suggestion, I have no doubt that something would have happened.” (TSA Ex. 8 at 0372). Respondent harbors anti-government ideas and if he meets the correct person or obtains more means to carry out attacks, grave action could occur.

Finally, aside from Respondent’s own testimony, the only evidence presented by Respondent was Respondent Exhibit A, the Forensic Neuropsychology Evaluation. In that Evaluation, the doctor does state she believes Respondent is not a risk to others. However, this opinion was contingent upon the condition that Respondent undertake the required treatment to

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maintain his mental health, such as attending individual therapy, taking medications, and attending group therapy session. However, since his release from incarceration, Respondent has not been taking medication or attending group sessions as recommend by the doctor. (Tr. 2 at 39-40). Even if I agreed with all the conclusions set for in that Evaluation, which I do not, Respondent admits he is not currently undertaking the therapeutic measures prescribed by his own doctor.

The preponderance of the evidence establishes Respondent is a security threat.

IV. ORDER

IT IS HEREBY ORDERED that TSA's Determination of Security Threat against Respondent is **AFFIRMED**.

PLEASE TAKE NOTICE that either party may appeal this Decision and Order to the Transportation Security Oversight Board in accordance with Interim Redress Procedures § 109 by serving the appeal no later than 60 days after the date of service of this Decision and Order, copies of which are included as Attachment B.

Done and dated this 30th day of May 2024, at
New Orleans, LA

A handwritten signature in black ink, appearing to read "Brian J. Curley", written over a horizontal line.

Brian J. Curley
Administrative Law Judge

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ATTACHMENT A

WITNESS AND EXHIBIT LIST

TSA Witnesses:

1. Jason Potter
2. Veronica Gross
3. Christina Chesterfield

Respondent Witnesses:

1. Ethan Collins

TSA Exhibits (stamped with Bates Number 0001-0413)

1. TSA Case File (Bates Number 0001-0099)
2. Collins Criminal Case No.: 21-cr-53-RM – Emergency Motion for Stay and Review of Release Order (Bates Number 0125-0136)
3. Collins Criminal Case No.: 21-cr-00053-RM – Motion for Revocation of Release Order and Opposition to Defendant’s Motion for Pretrial Release (Bates Number 0137-0208)
4. Collins Criminal Case No.: 21-cr-00053-RM – Order of Detention (Bates Number 0209-0212)
5. Collins Criminal Case No.: 21-cr-00053-RM – Plea Agreement (Bates Number 0213-0240)
6. Collins Criminal Case No.: 21-cr-00053-RM – Government’s Sentencing Statement (Bates Number 0241-0253)
7. Pictures and letters of reference (Bates Number 0254-0283)
8. Collins Criminal Case No.: 21-cr-53-RM – Reporter’s Transcript (Bates Number 0284-0381)
9. Collins Criminal Case No.: 21-cr-00053-RM-1 – Judgment in a Criminal Case (Bates Number 0382-0388)
10. Polygraph Report (Bates Number 0389-0392)
11. Security Threat Assessment (Bates Number 0393-0395)
12. Affidavit of Ethan Collins (Bates Number 0396-0398)
13. National Terrorism Advisory System Bulletin, issued 1/27/21 (Bates Number 399)
14. National Terrorism Advisory System Bulletin, issued 11/30/22 (Bates Number 0400-0401)
15. NTVC – Transporting Security Vetting (Bates Number 0402-0404)
16. Security Threat Assessment Report FAA-20210208-004-EC (Bates Number 0405-0406)
17. Report of Investigation (Bates Number 0407-0409)
18. Security Threat Assessment Report FAA-20210403-006-EC (Bates Number 0410-0412)
19. Memorandum (Bates Number 413)

Respondent Exhibit

- A. Forensic Neuropsychological Evaluation (54 pages)

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ATTACHMENT B

APPEAL RIGHTS

TSA Interim Redress Procedures for FAA Certificate Holders – U.S. Citizens § 109 U.S. Citizens: Review by the Transportation Security Oversight Board.

- (a) Applicability. This section applies to an individual U.S. citizen FAA certificate holder, or TSA, appealing an ALJ Decision issued under § 107(h).
- (b) Review by the TSOB Review Panel.
 - (1) The certificate holder or TSA may request that the TSOB review the ALJ Decision by filing a notice of appeal no later than 60 calendar days after the issuance of the ALJ Decision, in accordance with the TSOB's.
 - (2) TSA will provide the TSOB with a complete record of administrative proceedings in accordance with the TSOB's rules.
 - (3) Unless TSA timely seeks judicial review, if the TSOB Review Panel's Action provides that the certificate holder does not pose and is not suspected of posing a security threat, TSA will serve a Withdrawal of Determination of Security Threat on the certificate holder and the FAA, and the FAA will withdraw the FAA Order.
- (c) Judicial review of the Action of the TSOB Review Panel. A certificate holder substantially affected by an Action of the TSOB Review Panel, or the Administrator when the Administrator decides that the Action of the TSOB Review Panel will have a significant adverse impact on carrying out 49 U.S.C. subpart VII, part A, may seek judicial review of the FAA Order, as affected by the Action of the TSOB, as provided in 49 U.S.C. 46110 and 46111.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **DECISION AND ORDER** upon the following parties (or designated representatives) at the addresses indicated below.

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Done and dated this 30th of May 2024, at
New Orleans, LA

/s/

Nicole E. Mulmore
Paralegal Specialist