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AO 91 (Rev. 11/11) Criminal Complaint

2021R00240

UNITED STATES DISTRICT COURT

for the

District of Minnesota

UNITED STATES OF AMERICA

v.

MARK ANTHONY SCERBO

FILED UNDER SEAL PURSUANT TO ORDER

Criminal No. 21-MJ-386 (JTH)

CRIMINAL COMPLAINT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

Count 1: On or about May 16, 2021, in the State and District of Minnesota and elsewhere, on an aircraft in the special aircraft jurisdiction of the United States, namely, Jet Blue Airlines flight 915, which departed from Queens, New York (JFK Airport) bound for San Francisco, California (SFO Airport) the defendant, Mark Anthony Scerbo, did knowingly and intentionally possess a controlled substance, namely cocaine, after two or more prior convictions for any drug, narcotic, or chemical offense chargeable under the law of any State, all in violation of Title 21, United States Code, Section 844(a).

I further state that I am an Federal Bureau of Investigation Special Agent and that this complaint is based on the following facts:

See attached affidavit, incorporated here.

Continued on the attached sheet and made a part hereof: [X] Yes [ ] No

[Handwritten signature]
Complainant's signature

SUBSCRIBED and SWORN before me AND EMAIL by reliable electronic means via FaceTime pursuant to Fed. R. Crim. P. 41(d)(3).

Mitch Mabry, Special Agent
Federal Bureau of Investigation
Printed name and title

Date: May 18, 2021

s/Jon T. Huseby
Judge's Signature

City and State: Bemidji, MN

The Honorable Jon T. Huseby
United States Magistrate Judge
Printed Name and Title

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA

v.

MARK ANTHONY SCERBO

**FILED UNDER SEAL BY ORDER OF  
THE COURT**

Case No. 21-MJ-386 (JTH)

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

I, Mitch Mabry, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Special Agent of the United States Department of Justice, Federal Bureau of Investigation (FBI), and have been so employed since October 27, 2019. Prior to that, I served as a police officer in Glendale, Arizona for approximately six years, where my responsibilities included patrol duties and investigation of associated drug offenses. I am currently assigned to the Guardian Squad at the Minneapolis-St. Paul International Airport, where my investigative responsibilities include investigation of crimes in the special aircraft jurisdiction of the United States. I have gained knowledge and experience through training at the FBI Academy, in service training, and everyday work in conducting these types of investigations.

2. I am an “investigative or law enforcement officer” of the United States within the meaning of 18 U.S.C. § 2510(7), and am empowered by 18 U.S.C §§ 3052 and 3107 to conduct investigations of, and to make arrests for, violations of federal criminal statutes.

**PURPOSE OF AFFIDAVIT**

3. I make this affidavit in support of an application for a Criminal Complaint charging Mark Anthony Scerbo (DOB XX/XX/1979)<sup>1</sup> (hereinafter Scerbo) with:

Count 1: On or about May 16, 2021, in the State and District of Minnesota and elsewhere, on an aircraft in the special aircraft jurisdiction of the United States, namely, Jet Blue Airlines flight 915, which departed from Queens, New York (JFK Airport) bound for San Francisco, California (SFO Airport) the defendant, Mark Anthony Scerbo, did knowingly and intentionally possess a controlled substance, namely cocaine, after two or more prior convictions for any drug, narcotic, or chemical offense chargeable under the law of any State, all in violation of Title 21, United States Code, Section 844(a).

4. The facts set forth in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement officers, victims, and witnesses. Because this affidavit is submitted for the limited purpose of securing a criminal complaint, it does not include every fact known to me or to other investigators.

**PROBABLE CAUSE**

5. On or about May 16, 2021, Jet Blue Airlines flight 915 was en route from New York (JFK Airport) to San Francisco (SFO Airport) when it diverted to Minneapolis-St. Paul International Airport. Upon arrival, the lead flight attendant advised airport police

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<sup>1</sup> I have redacted personally identifying information, such as dates of birth and witness names, from this affidavit. Unless otherwise noted, this information is known to me and available to the Court.

that a man later identified as Scerbo was seating in seat 5A and was causing a commotion. The flight attendant reported that during the meal service, Scerbo threw his food on the floor, grabbed a metal butter knife provided with the meal, and began walking up and down the aisle while holding the knife in a closed fist with the blade up. When the lead flight attendant removed Scerbo's food tray from his seat, she observed a bag containing a white powdery substance on the tray, which she retrieved and later delivered to police.

6. Another flight attendant witnessed Scerbo's behavior and described it as bizarre. This flight attendant described Scerbo as singing out loud, doing yoga-like movements in people's faces, and acting aggressively.

7. A female passenger was seated next to Scerbo in seat 5C. This female passenger stated Scerbo was agitated before the flight even began. Scerbo told her he was a prophet named Genghis Khan and accused her of being in the CIA. Scerbo talked to this passenger about nano bots, angels, a "peace army" and at one point touched her phone screen. This witness asked Scerbo if he was on drugs, and he replied, "of course not, look me in the third eye." This witness noted Scerbo went to the bathroom approximately six times. At one point, she reported Scerbo dipped his finger into a bag containing white powder and snorted it with his nose. She observed him to have white powder all over his mustache, face, and pants. Scerbo continued to make inappropriate comments to her and stated at one point "I love you." Scerbo's actions made this passenger feel unsafe, leading the lead flight attendant to move her to a different seat. After she moved seats, Scerbo

walked by her in the aisle and patted her head as he passed. The passenger reported that she felt Scerbo was dangerous and was concerned for the safety of the flight.

8. Another passenger on the flight who was seated across the aisle from Scerbo reported he observed Scerbo getting up and using the restroom several times, while bringing the butter knife and a large feather with him. This witness described Scerbo's behavior with the knife as highly unusual. The witness reported that Scerbo appeared to be trying to get his attention, and when the witness would not engage with him, Scerbo repeatedly called him "faggot." Additionally, Scerbo threw playing cards at the witness while saying "suicide kings." The passenger's juvenile daughter also witnessed Scerbo's actions and statements.

9. Scerbo's brandishing of the knife and erratic behavior described above made multiple passengers and flight attendants uncomfortable. The pilot diverted the flight to Minneapolis-St. Paul International Airport (MSP) due to safety concerns.

10. MSP Airport Police Officers met the flight at gate H9 and immediately detained Scerbo. The lead flight attendant provided the bag of white powdery substance taken from Scerbo to Sergeant Frank Coburn #4212, who field tested the substance and indicated it tested positive as cocaine. Officer Clark #57 took custody of the cocaine and noted it later weighed at approximately 24.5 grams without packaging.

11. Scerbo was taken to the Airport Police Operations Center and interviewed by Special Agent Marc Rensch of the FBI. After being advised of his rights under *Miranda v. Arizona*, Scerbo acknowledged possessing the bag of white powdery substance, but

claimed it was creatine and not a controlled substance. He further claimed to consume the “creatine” orally, but denied snorting it. Scerbo denied disrupting the flight or carrying a knife. Scerbo also stated that he told the female passenger next to him that he was “Toshi Nakamoto,” the founder of a crypto currency. Special Agent Rensch observed that Scerbo’s pupils appeared dilated, and noted that Scerbo appeared able to understand and respond to his questions.

12. I know from my training and experience that creatine can come in white powder form and is used as a supplement to increase muscle. It is most commonly taken orally. I am also aware from prior investigations involving controlled substances that people in possession of cocaine sometimes claim it is creatine because the substances are visually similar.

13. Scerbo was then booked into the Hennepin County Jail by Airport Police and the flight continued to San Francisco.

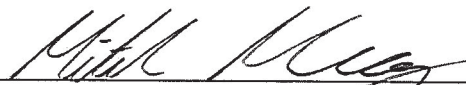
14. A check of the National Criminal Information Center (NCIC) database reflects that Scerbo’s criminal history includes a prior federal conviction for conspiracy to possess with intent to distribute a controlled substance for which Scerbo was sentenced to approximately 57 months’ imprisonment and three years’ supervised release in 2004. In 2010, Scerbo was sentenced to an additional four months’ imprisonment for a supervised release violation, with two years’ supervised release to follow. In 2012, Scerbo was convicted federally of introducing contraband (drugs) in prison, and was sentenced to 18

months' imprisonment and three years' supervised release. The NCIC reflects additional arrests and convictions.

**CONCLUSION**

15. Based on the foregoing, I submit there is probable cause as charged in the proposed criminal complaint that Mark Anthony Scerbo, in the District of Minnesota and elsewhere, has violated 21 U.S.C. § 844(a).

16. Accordingly, I request that a warrant issue for the arrest of Scerbo that he may be brought before this Court.

  
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Special Agent Mitch Mabry  
United States Department of Justice  
Federal Bureau of Investigation

SUBSCRIBED and SWORN before me  
by reliable electronic means (FaceTime and  
email) pursuant to Fed. R. Crim. P. 41(d)(3)  
on May 18, 2021

*s/Jon T. Huseby*

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THE HONORABLE JON T. HUSEBY  
UNITED STATES MAGISTRATE JUDGE