

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CASE NO.: 21-CR-00086-JMC

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL HAAK,

Defendant,

SENTENCING MEMORANDUM

The Defendant, Michael Haak, by and through the undersigned counsel, hereby offers the following Sentencing Memorandum for this Court's consideration. An initial appearance, plea and sentencing is scheduled for May 28, 2021, at 1:30 P.M. Pursuant to an agreement between the parties, with the Court's consent, this matter will be handled virtually. This Memorandum is being filed pursuant to Rule 32 of the Federal Rules of Criminal Procedure.¹

INTRODUCTION

On May 28, 2021, Michael Haak, will enter a plea of guilty to a one-count Information charging him with the Class B Misdemeanor violation of committing a lewd, indecent or obscene act in violation of D.C. Code Section 22.1312 (formerly D.C. Code Section 22-1112), as assimilated by 49 U.S.C. §46506(2). The facts regarding this offense have been presented to the Court in a written Plea Agreement. This misdemeanor offense is punishable by a maximum of

¹ This Memorandum is to address the unique nature of the pending misdemeanor charge and does not address any issues, factual or legal, that may be raised in any civil action.

90 days in jail, followed by up to one year on supervised release, as well as the applicable fine and a twenty five dollar special assessment.

Although not binding on the Court, the Government has agreed to recommend a period of probation and has indicated they have no objection to non-reporting probation.

Because this is a Class B misdemeanor, the parties have agreed the sentencing guidelines do not apply. The parties are also in agreement that there is no sex offender registration requirement for this misdemeanor offense.

The undersigned defense counsel wanted to share the Defendant's background and history with the Court for consideration at the time of sentencing. The Defendant, Michael Haak, has no criminal history.

MICHAEL HAAK

Michael Haak resides in Longwood, Florida. He lives with his wife, Kelly. He has lived in Longwood for 20 years. Mr. Haak has two children. His daughter, age 24, works as a subcontractor in the aviation industry. His son, 26, is a safety inspector/auditor in the construction industry.

Mr. Haak received a Bachelor of Science degree in Aerospace Engineering from Penn State University in 1983. In 1989, he earned his Master's Degree in Systems Management from the University of Southern California. (copies of these degrees are attached hereto as Exhibit A.)

Mr. Haak served in the United States Air Force, attaining the rank of Captain. While serving our country, he received the Air force Honorable Unit Award, Combat Readiness Medal, National Defense Service Medal, Air Force Longevity Service Award Ribbon and Air Force

Training Ribbon. Captain Haak is also a Gulf War/Desert Storm veteran who served with distinction as a C-141 Aircraft Commander during that conflict. He was honorably discharged. (copy of Form DD 214 attached hereto as Exhibit B, in addition to other certificates regarding his military service.)

Mr. Haak then began his career in the airline industry. He was a pilot for Southwest Airlines for 27 years until his retirement.² He enjoyed a sterling employment and training record. Mr. Haak was extremely dedicated to his job at Southwest and was never late in reporting for duty during his career. While working at Southwest he received numerous accolades and letters. It is evident from a review of these letters that Michael Haak was a dedicated, concerned, gracious and committed employee to Southwest Airlines. Michael Haak has received various commendations and positive input from passengers, colleagues and staff he interacted with during his time with Southwest Airlines. These are in the form of memorandums or customer attestations about Michael Haak or something he participated in while flying for Southwest Airlines. These commendations range from dealing with a passenger's medical emergency, getting an aircraft ready for an incoming crew, or even offering a passenger the use of his personal credit card to make a phone call to contact a family member. This even includes a poem written by a passenger to show their gratitude. (These letters are attached hereto as Exhibit C.)

He also donated time to his community, participating with the Seminole County Public School system where he served as a volleyball coach for ten years. He also coached many of his

² Prior to Southwest Airlines, Mr. Haak flew for Morris Airlines based in Salt Lake City as well as Horizon Airlines. These are smaller passenger carriers.

children's sports programs as they grew up and was actively involved in their education as well. At Southwest he also participated in the Adopt a Pilot Program where Mr. Haak would volunteer/visit elementary schools in Seminole County providing educational opportunities in math, science, and aviation. A Certificate of Appreciation from Seminole County Public Schools is attached hereto as Exhibit D.

LETTERS OF RECOMMENDATION

Attached are also letters of recommendation from a variety of individuals who know Michael Haak. Each letter details how they know Michael Haak personally or professionally. Each letter describes Mr. Haak and talks about the type of person he is.

These letters are from the following:

- Letter dated April 18, 2021, from Mark Plussa.
- Letter dated April 20, 2021, from Southwest Airlines Captain Jeff Gullickson.
- Letter dated April 21, 2021, from Chris and Teresa Halliday.
- Letter dated April 22, 2021, from Mohammed I.T. Bey, Chief Officer for Diversity, Equity & Inclusion, Northeast WI Technical College.
- Letter dated April 23, 2021, from Margaret and David Graef.
- Letter dated April 23, 2021, from James R. and Silvia P. Wright.
- Letter dated April 23, 2021, from Captain Tony K. Clinton.
- Letter dated April 24, 2021, from Jerri Collins.
- Letter dated April 30, 2021, from Stephen T. Ball.

Some excerpts from these letters, attached and incorporated as Exhibit E, are as follows:

Stephen T. Ball, a friend and neighbor for over 15 years writes:

“I have watched Michael coach volleyball for our children as well as helping other kids reach their goals. As an example, my son Casey is just this week starting as a pilot with one of American Airlines regional carriers. Michael was instrumental in helping my son’s dreams to become a reality by taking him flying on the weekends and encouraging him in the pursuit of his dream.”

Jerri Collins, a friend for 15 years, writes:

“I am familiar with the facts of the case before the court. I believe this to be a random act of bad judgment. As you will learn, Mike has never been in trouble with the law and has led an exemplary life in our community. After speaking with Mike I feel that he is sincerely remorseful. Any punishment imposed by this court will come secondary to the chastisement he has imposed upon himself.”

Mark Plussa, a fellow pilot, who has known Michael Haak for over 20 years, writes

in part:

“I was always impressed with his professionalism and work ethic.”

“He was known for going that extra mile and the first to grab coffee, meals or extra chocolate on these long stressful trips. His intentions were to always let those under his supervision know they were respected, appreciated and valued.”

Tony K. Clinton, a fellow pilot, who has known Michael Haak for 20 years, writes:

“Mike is always the person who wants to help. He spent many years coaching youth volleyball and his kids’ teams. Because of Mike’s enthusiasm and tutelage, a few of his players have gone on to play at the college level. He has earned my respect for his integrity, kindness and supportive nature.”

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The rest of the attached letters all echo the same sentiment as to the type of individual Michael Haak is.

One last letter, reprinted in full, is from the Vice President of the Southwest Airlines Pilots Association, and summarizes Michael Haak's career with Southwest Airlines and is attached as Exhibit F as follows:

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April 26, 2021

The Honorable J. Mark Coulson
Magistrate Judge
U.S. District Court, District of Maryland
101 West Lombard Street
Chambers 8D
Baltimore, MD 21201

Re: Michael James Haak (EE# 23885)

Dear Judge Coulson,

Southwest Airlines Pilots Association (the "Association") is the certified labor bargaining unit representing the over 9,000 pilots employed by Southwest Airlines Co. ("Southwest"). The work rules and conditions for Southwest pilots are set forth in the collective bargaining agreement negotiated between the Association and the airline ("CBA"). The current CBA was ratified on November 7, 2016. As a condition of continued employment with Southwest, and in accordance with the provisions of the Railway Labor Act, as amended, each pilot covered in the CBA is required to become a member of the Association.

The Association's business records show that Michael James Haak (EE# 23885) was hired by Southwest as a pilot on January 1, 1994. He retired as a captain from the airline on September 1, 2020. Our business records show that Captain Haak did not have any employment related issues nor complaints for which he would have required union representation. In addition, the Association is informed of any training issues related to its pilot members. Our records also do not show any training issues for Captain Haak. In his 27-year career with Southwest, Captain Haak had spotless employment and training records.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Santoro", with a horizontal line extending to the right.

Captain Michael Santoro
Vice President
E:
O: 214-722-4225

RETIREMENT

Mr. Haak's final flight with Southwest Airlines was on August 31, 2020. On that day he received a letter from Southwest Chairman and CEO Gary Kelly who complimented Mr. Haak's years of service to Southwest Airlines. (That letter is attached hereto as Exhibit G.)

On September 25, 2020, three weeks post-retirement, Mr. Haak suffered a stroke, which resulted in his being unable to speak for periods of time, impaired his coordination and balance, and resulted in his being disoriented and confused. Emergency treatment and hospitalization was required, and Mr. Haak had to undergo a medical procedure to remove a thrombosis from his brain. In hindsight, Mr. Haak came to understand that while still flying what he thought was fatigue or routine illness may have actually been transient ischemic attacks (TIA's). These usually result when part of the brain experiences a temporary lack of blood flow, causing things like vision changes, confusion, altered level of consciousness or difficulty speaking. Fortunately, Mr. Haak is doing better, but needs to remain keenly aware as to what occurred. He sees his doctor regularly and is monitoring what occurred. (A letter from his physician is attached hereto as Exhibit H.)

Although the guidelines are not applicable in this case, the Court can look to the objectives behind the 18 USC 3553 factors in considering the appropriate sentence:

No one, particularly, Michael Haak, undermines the seriousness of what occurred. Michael Haak is an extraordinary individual who has led a good life, served our country, raised a family and worked hard.

He has accepted responsibility for his conduct and offers no excuses. What began as a consensual prank at the encouragement of Mr. Haak's co-pilot has certainly grown into something Michael Haak never anticipated. He is sorry and remorseful for his actions. He is hoping that this Court's understanding of the type of life he has led will be the best indicator that he is deserving of leniency. The embarrassment and resulting publicity of this incident has in and of itself been humbling to Michael Haak and has served as punishment in many ways.

To suggest that Michael Haak has not been deterred or to punish him more severely would be to ignore his lifetime of hard work and kindness. There is no reason to believe he would ever again (as he had not his entire adult life) engage in any criminal conduct. The public does not have to be protected from Michael Haak. His years of good living, family values and service to our country and Southwest Airlines clearly demonstrates that.

Michael Haak's history and characteristics are a "cornerstone of the sentencing factors. It means a life well lived counts."³ It is respectfully submitted that Michael Haak has lived a good life and is asking this Court to judge him by the way he has lived and not just the facts of this incident.

Based on the specific and unique facts of this case, the Defendant, Michael Haak, is asking this Court to adopt the recommendation of the Government and impose a sentence involving a fine and if deemed appropriate, a term of unsupervised probation.

³ Comments of The Honorable Katherine Hayden in United States v. David Grober, 595 F. Supp. 2d 382 (D. N.J. 2008).

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I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, by electronic transmission via CM/ECF, to Michael Cunningham, Assistant United States Attorney, 56 S. Charles Street, Suite 400, Baltimore, Maryland 21201-3119, and to Melissa McGuinness, Senior United States Probation Officer, Investigation Specialist, Baltimore, Maryland, via e-mail: melissa.mcginnessmdp.uscourts.gov, this 25th day of May, 2021.

Respectfully submitted,

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/s/ Michael Salnick
MICHAEL SALNICK, Fla. Bar #270962
Admitted Pro Hac Vice

Attachments