IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Jonathan Corbett Petitioner v. Transportation Security Administration Respondent	**No. 15-_____** **PETITION FOR REVIEW**

Jonathan Corbett, *pro se* Petitioner, challenges a program maintained by the Transportation Security Administration ("TSA"), a component of the Department of Homeland Security, known as the "international security interview program." In short, the international security interview program compels airlines to adopt policies whereby travelers returning to the United States by plane are interrogated prior to boarding, and failure to comply with the interrogation will result in denial of boarding and inability to return home, even for U.S. citizens. This requirement is a violation of the U.S. Constitution's Fifth Amendment right to remain silent, when placed in context with the constitutional rights to travel and for citizens to re-enter the country, as well as statutory guarantees of access to travel by air, and Petitioner asks for the program to be declared unconstitutional and enjoined.

The program is conducted entirely in secret, as per the TSA's designation of it as Sensitive Security Information ("SSI"), 49 C.F.R. Part 15. There was no

public notification of the program whatsoever, and as of the date of filing, searching the Internet for the program appears to produce zero relevant results[1]. Conducting a program in secret makes the issue of jurisdiction complex: if the program constitutes an "order" of the Transportation Security Administration, jurisdiction lies in this Court under 49 U.S.C. § 46110(a); else, jurisdiction properly lies in a U.S. District Court. As there is no way to determine the correct jurisdiction before filing, and § 46110(a) provides a strict 60 day filing deadline, this Court ruled last year that litigants in such a situation should file concurrent petitions in both the Court of Appeals and District Court. *Corbett v. TSA*, 767 F.3d 1171, 1179 (11th Cir. 2014) (*rehearing denied Dec. 5th, 2014, cert. period still pending)*. As such, Petitioner files a matching complaint simultaneous to this one in the U.S. District Court for the Eastern District of New York[2].

[1] Save for Petitioner's own writing on the issue, which has been indexed by Google and was perhaps the first time the public was made aware of the program.

[2] Petitioner encountered the challenged program while *en route* to John F. Kennedy Airport (JFK), which is located within the boundaries of the Eastern District of New York, and therefore that court is the appropriate venue, should the program turn out not to be a TSA "order." While it would make sense that this concurrent petition therefore be filed within the Second Circuit, federal law requires that, if the program does turn out to be a TSA "order," this petition be filed in Petitioner's home jurisdiction or the D.C. Circuit. 49 U.S.C. § 46110(a). The Second Circuit is neither, as Petitioner resides within this circuit. Petitioner recognizes the inefficiency and challenges of having 2 actions in 2 separate parts of the country, but such is the law.

This petition is timely filed per § 46110(a) because Petitioner first became aware of the program on December 25th, 2014, when he was subjected to it while traveling. While the plain language of the statute requires challenges to be made within 60 days after the order is "issued," since the order was issued in secret, refusing to toll the 60 day time period until an aggrieved party obtains knowledge of the program would essentially deny any opportunity for review whatsoever, which would be plainly unconstitutional. In light of the fact that the 60 day timeframe is "non-jurisdictional" (*Corbett* at 1176 – 1178), and the statue provides a "reasonable grounds" exception to the 60 day rule, this petition is timely filed.

Finally, Petitioner asks the Court to review the designation of the international security interview program, in its entirety, as SSI, and to remove the designation from all or as many documents relating to the program as possible. This program affects the legal obligations of thousands of travelers daily, and running it entirely in the shadows, such that the public is not even aware of its existence, does not serve the public interest, nor does it serve a legitimate security concern: if Customs and Border Patrol can release its field manual on how its agents are to interview those crossing the border, as it has, the TSA can similarly let the public know how it plans to cause them to be interrogated as they seek to board a plane. SSI designations are TSA "orders;" therefore this Court has jurisdiction to review such a designation under § 46110(a).

Dated: Miami, FL
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Respectfully submitted,

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