

DISRUPTIVE PASSENGER INCIDENT

Indictment

THE PEOPLE (AT THE SUIT OF
THE DIRECTOR OF PUBLIC PROSECUTIONS)

-V-

BERNIE NOLAN – DEFENDANT

STATEMENT OF THE OFFENCE

BERNIE NOLAN is charged with committing a breach of the peace on board an aircraft in flight contrary to Section 2(a) subsection (3) of the Air Navigation and Transport Act 1973.

PARTICULARS OF THE OFFENCE

On the 17th March 2015, the accused BERNIE Nolan did commit such an offence while on a Flying Services Airbus aircraft, flight EI-109 from New York, USA to Shannon, Ireland.

How do you plead ? Guilty /Not Guilty?

It is the Prosecution's case that the accused did wilfully or recklessly engage in behaviour of a threatening, abusive and insulting nature towards members of the crew causing a breach of the peace on board the aircraft in flight. In other words the accused engaged in an act of "air rage".

It is the Defence case that s/he did not use threatening, abusive or insulting language towards members of the crew with intent to cause a breach of the peace nor was he/she reckless as to whether a breach of the peace might be occasioned. He/she remonstrated with members of the crew when he/she was not allowed to use the toilet in the first class section of the aircraft when the economy class toilet was occupied which was discriminatory and against her right to dignity under the constitution.

THE LAW

Section 2a(3) of the Air Navigation and Transport Act 1973 (inserted by section 65 of the Air Navigation & Transport Act 1998.)

“A person on board an aircraft in flight who engages in behaviour of a threatening, abusive or insulting nature whether by word or gesture with intent to cause a breach of the peace or being reckless as to whether a breach of the peace might be occasioned shall be guilty of an offence”

A person found guilty of an offence on indictment under section 2(a)3 shall be liable to a fine up to €3,000 or a maximum of 4 months imprisonment, or both.

(alternative Indictment)two charges

Count 1

Statement of offence

That you Bernie Nolan ,did on the 17 day of March 2015,did engage in behaviour constituting a Breach of the Peace whilst on board an Aircraft in flight contrary to section 2 (a) 3 of the Flight Navigation and Transport Act 1998 as amended.

Particulars of Offence

That you Bernie Nolan did while on a while on a Flying Services Airbus aircraft, flight EI-109 from New York, USA to Shannon, Ireland. did wilfully or recklessly engage in behaviour of a threatening, abusive and insulting nature towards members of the crew causing a breach of the peace .

Count 2

Statement of Offence

Assault contrary to section 2 of the nonfatal offences against the persons act 1997

Particulars of Offence

That you Bernie Nolan did use language and gestures so as to put the crew of the said flight in fear or apprehension of harm, contrary to sec 2 of the nfoapa 1997.

JURISDICTION

There are no jurisdictional problems as an offence committed on board an Irish registered aircraft in flight anywhere is deemed to be committed in the State.

Prosecution opening speech,

Followed by first witness for state

Garda McDonagh of Miltown malby Garda Station, dated 17th March 2015

At approximately 8.30am on the 17th March 2015 I received a phone call to go to Shannon Airport following reports of a disruptive passenger incident which occurred on board an aircraft flying in from New York. I was present when the aircraft arrived on the apron at 9am. Immediately I entered the aircraft and arrested without warrant the Defendant, Bernie Nolan, who was sitting in row 11C which was an aisle seat. I told him / her the reasons for the arrest. He/she was taken to Miltownmalby Garda Station where his / her name was entered in the custody record book. I told him/her that he/she was being charged with an offence under section 2(a)3 of the Air Navigation and Transport Act and read out the charge to him/her. I also told him/her that other charges could follow. Before interviewing him/her I cautioned him/ her that anything he/she might say would be taken down and may be used in evidence against him/her. I also told him/her s/he could make one phone call and have a solicitor present. The accused made one phone call to his/her family and no solicitor was present during the interview. After the interview the Defendant was released on station bail.

The Defendant made a brief statement as follows "I was a passenger on flight 109 from New York to Shannon and after the last meal of the journey was served I proceeded to go to the toilet. All the toilets in economy class were engaged so I asked the hostess if I could use the toilet in first class. She told me that this was not possible as first class was reserved for first class passengers only and that I would have to wait until a toilet became available in economy class. Immediately I took umbrage at this and felt my dignity was not respected and protested strongly to the steward/ stewardess as to how an airline could operate such a silly rule. I was in no way threatening or abusive but I am a person who calls 'a spade a spade' and I did refer to the crew as 'dumb blondes' for enforcing silly rules like this. Fortunately, a toilet in economy class became vacant some moments later. However, when I emerged from the toilet I was shocked to find crew members waiting to jump me and physically handle me back to my seat. Naturally I became annoyed and used some improper language as the whole thing was so silly. I never threatened anyone or waved my fist at anybody and only raised my arm to defend myself. I recall saying that I would sue the airline for assault if they did not take their hands off me. Also I would like to add that it was a long flight and I am a smoker, and to tell you the truth the smoking ban did not help me. I was dying for a cigarette. When in need of a cigarette I often get very nervous. Finally, in no way did I commit a breach of the peace but simply wanted to use the damn toilet irrespective of what part of the plane it was located".

PROSECUTION

Witness number 2, air steward/ stewardess Sam Topping

I trained and worked as a nurse for five years prior to becoming a air steward/stewardess with Flying Services PLC. I have worked with the airline for the past 3 years. We were about an hours flying time from Shannon and all was calm in economy class section. Some passengers were sleeping while others were either reading or using audio visual units. Suddenly, a person brushed past me in the aisle of the cabin almost knocking me over as I was attending another passenger. Next I saw him/her standing at the toilet door gesticulating and muttering to himself/ herself. I went to him/her immediately to see if he/she was all right. Suddenly he/she started pounding the toilet door and I told him/her to stop and go back to his /her seat and wait until the toilet was vacant. He/ She refused to go back to his/her seat and demanded to use the toilet in first class. I told him/her that he/she could not do so as the first class section was reserved for passengers with first class tickets only and that his/ her ticket was for economy class. At this he/ she became really aggressive and started to threaten and abuse me. He /she said “feck off you trolly dolly” and “get out of my way you fat blonde”. Then he/ she tried to enter first class through the galley. Other members of the crew prevented him/her from doing so. Immediately I ran to the cockpit to inform the Captain of the fact that we had a disruptive passenger on board. When the Captain arrived at the scene the accused had already gained access to a toilet in economy class. We waited outside. When he/she emerged from the toilet he/ she started giving more abuse and shouted “keep away from me you dumb blondes” and then waved his/ her fist in a threatening manner. Immediately the Captain, myself and another member of the cabin crew physically escorted the defendant back to his /her seat. All the time he/ she kept shouting “what kind of a fecking airline is this” I could see that some of the passengers were alarmed by what was going on.

PROSECUTION WITNESS NO. 3 Captain – Terry Breathnach

I have been working with the airline for the past eight years and the last three years as senior captain on the Airbus. Before joining commercial aviation I obtained my flying training and experience in the Air Corps. I was captain on board Irish registered aircraft, EI_ACK, type AIRBUS, flight number 109 on 17th March 2015 and about an hours flying time from Shannon and cruising at an altitude of 30,000 feet. I was about to make contact with Shannon Air Traffic Control regarding our approach to Shannon when suddenly our senior steward/ stewardess rushed to the flight deck looking rather distraught. He/ she informed me that there was a disruptive passenger on board the aircraft who was threatening and abusive to him/ her, Naturally as I have prime responsibility for the safety of the aircraft and

the passengers and crew I immediately went to investigate the matter. Cabin crew informed me that the Defendant Mr. /Ms. Nolan had entered one of the toilets in economy class. We waited some minutes for him/ her to emerge. When he/she came out of the toilet I told him /her that he /she was disrupting the peace and abusive to the crew and would have to be escorted back to his / her seat for security reasons. His/ her response was “get out of my face or I will take your head off” Then he/she raised his/ her fist in a threatening manner. Immediately I grabbed him/ her by the arm to restrain him. Her and with the assistance of other crew members we took him/ her back to his / her seat and secured him/ her for the remainder of the journey. All the time he / she was using abusing language saying “Take your fecking paws off me” and that he / she would sue the airline for the assault. Other passengers were visibly very upset. I did get a smell of alcohol from his/ her breath. On returning to the flight deck I contacted Shannon Air Traffic Control about the incident and requested that the Garda meet the aircraft at Shannon. On arrival , Garda McDonagh came on board and I pointed out the Defendant . Immediately the Defendant was handcuffed and taken away. I recorded the incident in my log book.

DEFENCE

Opening speech

Witness 1 Defendant Bernie Nolan

Exam in chief

I am an Irish citizen of 24 years of age with a B.A. in economics. For the past 3 years I have been working for the Citibank in New York. I work in the marketing division. On 17th March 2015, I was returning to Ireland for the Easter vacation to be with my family in Dublin. I was a passenger on board flight 109 Flying Air Services in economy class. After the last meal had been served which included one glass of wine I got up from my seat to go to the toilet. As the toilet in economy class was engaged I politely asked the host/ hostess if I could use the toilet in first class as a matter of urgency. When I was told that I would not be permitted to use the toilet in first class because economy class passengers are not allowed into first class, I said to myself “where am I? On the Titanic or something, this is a crazy rule”. I remonstrated with him/ her but to no avail. I asked him/ her what kind of an airline did she/ he work for which had such a silly rule where someone from economy class is not permitted to use a toilet which his vacant, simply because it happens to be in first class. This is ridiculous. Neither did I bang on any toilet door, but knocked gently once. I was never threatening or abusive to him/ her. Fortunately, I did gain access to a toilet in economy

class. When I vacated the toilet members of the crew jumped me and physically man-handled me back to my seat. I told them to take their hands off and leave me alone or I would sue the airline for assault. Naturally I became very annoyed at being treated in this manner. I felt my whole dignity as a human being was taken from me by the manner in which I was being treated by the airline crew. I never suffered such humiliation in all my life before and felt the way I was treated was an affront to my personal dignity under the Constitution and against the European Convention on Human Rights. Furthermore, I did not threaten anyone with my fist at any time but simply tried to defend myself from the heavy handedness of the crew who were not helpful when I simply wanted a little bit of human dignity. I am a smoker and can get irritable if I cannot have a cigarette for a long period. The flight took more than 5 hours.

PASSENGER (2) Witness – Pat Lauren

My name is Pat Lauren. I was returning to Ireland on flight 109 for the Easter. I first met the Defendant Mr/ Ms Nolan on the flight and we had much opportunity to engage in conversation in row D next to the Defendant. During the flight we chatted together about Ireland and how it had changed so much in recent years. He/ She appeared to be a rather intelligent person who had a good grasp of economics. He/ She also remarked during the flight that it was a pity that they had brought in the smoke ban as she/ he would have loved a cigarette to help himself/ herself to relax during the flight. When meals were served we had a small bottle of wine each. After the meal he/ she got up from his / her seat to go to the toilet which was located down the aisle close to the galley and bulkhead section of the aircraft about 10 metres away. The next minute I noticed him/ her standing at the toilet door engaged in conversation with the air steward/ stewardess and there seemed to be some kind of dispute going on. The defendant seemed to be pointing in the direction of first class indicating that he/ she wished to go there. Suddenly he/ she disappeared behind the galley curtain and returned moments later when a toilet became vacant which he/ she entered. Then the Captain appeared with other crew members at the toilet door. When the defendant came out of the toilet the crew appeared to grab him/ her and there seemed to be a bit of a scuffle. I was surprised as I did not know what was happening. I thought perhaps that someone got sick in the toilet. I did not notice the defendant raise his/ her fist at any time. Next the defendant was escorted back to his / her seat with the Captain holding him/ her by one arm. I did not see him / her threaten anybody, but he / she did seem a little agitated as he / she was lead down the aisle and I could hear him saying "I will never fly this airline again". When he/ she sat down he/ she seemed to calm down and was very quiet for the rest of the journey. He/ she told me that it was ridiculous for an airline to have a silly discriminatory rules about toilets and that they did not show respect to the dignity of the human person. When the flight landed we exchanged contact numbers. As the aircraft taxied to a halt at Shannon we were told to remain in our seats until the doors were open. I

was really surprised when a Garda came on board, handcuffed the defendant and took him/her away. This was something I never expected. I never noticed or felt any breach of the peace at any time during the flight.

Defence 3 Witness Expert – Phil Hardiman, Psychologist. Ph.D.

I am a professional psychologist and qualified in Hopkins University in 1995. I do not wish to comment on the merits of this particular case. However, I would like to state that research has been done on disruptive passenger syndrome or what is more commonly known as 'air rage'. It is a well-established fact that alcohol does effect the behaviour of passengers in flight. For example, if the cabin of a commercial aircraft is pressurised to an altitude of 8,000 feet it is similar to one having a drink at the bar at that altitude where the air is much thinner than at the ground level. Consequently, it is easier for someone to become inebriated with less oxygen. In my opinion no alcohol should be served in any flight. Other factors which may influence behaviour is the smoking ban. Some passengers get irritable when they cannot have a smoke for long periods of time. Also some people are susceptible to claustrophobia and can become uncomfortable and psychologically unwell when in confined spaces of an aircraft. Also I should add that research indicates that persons with big egos can become disruptive when told what to do. However, as I say I cannot comment on the present case before us, but only on the results of research done into the complex area of disruptive passenger syndrome.

(Each witness cross examined after exam in chief)

End of evidence

Closing speech of each side. Prosecution first/ defence last

Judge charges jury

Jury bring back decision

Sentencing or case dismissed

Have fun!!