

**Before the
TRANSPORTATION SECURITY ADMINISTRATION
DEPARTMENT OF HOMELAND SECURITY**

IN THE MATTER OF:

Curtis Ree,

Respondent.

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Docket No. 16-TSA-0130

FINAL DECISION AND ORDER

Curtis Ree (Respondent) seeks review of the Order issued in this matter by the Administrative Law Judge (ALJ) on April 14, 2017. That Order granted the Transportation Security Administration's (TSA's) (Complainant's) Motion to Deem Allegations Admitted and affirmed a civil penalty in the amount of \$7,500. For the reasons stated below, the ALJ Order is affirmed and Respondent's appeal is denied.

Summary of Facts

On March 1, 2016, Respondent was a ticketed passenger on Alaska Airlines flight #2181 departing from Seattle-Tacoma International Airport (SEA). Respondent submitted to security screening, as required prior to boarding his flight, and TSA Transportation Security Officers discovered a loaded pistol in his carry-on bag. Pursuant to the governing security regulation codified at 49 C.F.R. § 1540.111(a)(1), no passenger may have a weapon in his possession or accessible property when security screening has started. Respondent identified himself as the owner of the bag and stated that he did not fly often and forgot about the loaded firearm in his bag.

On July 20, 2016, TSA issued a Notice of Proposed Civil Penalty to Respondent. He requested an informal conference, which took place on October 3, 2016. Complainant sent

Respondent a settlement offer that he declined to accept. On October 18, 2016, TSA sent Respondent a Final Notice of Proposed Civil Penalty and Order, and on October 28, 2016, Respondent requested a formal hearing. On November 10, 2016, TSA filed a Complaint and on December 9, Respondent filed his Answer. In the Answer, Respondent admitted the violations TSA asserted in the Complaint. On January 23, 2017, Complainant filed a Motion to Deem the Allegations of the Complaint Admitted and a Motion for Decision and Order. Respondent did not respond to the Motions and on April 4, 2017, the ALJ granted TSA's Motions.

TSA sent Respondent a letter dated April 24, 2017 notifying him that the civil penalty in the amount of \$7,500 was due. On May 19, 2017, Respondent wrote to the ALJ and referred to a Notice of an Interlocutory Appeal. The ALJ's office forwarded that to the Enforcement Docket Clerk, and it is being treated as a request for review by the TSA Decision Maker.

Final Decision and Order

The governing procedures for a request for review by the TSA Decision Maker are codified at 49 C.F.R. § 1503.657. They provide that the moving party must file a notice of appeal within 10 days of the ALJ's oral decision or service of the written decision. The basis of the appeal must assert that a finding of fact was not supported by a preponderance of the evidence; a conclusion of law was not made in accordance with the applicable law, precedent, and public policy; or the ALJ committed prejudicial error in reaching the decision. Finally, the moving party must perfect the appeal within 50 days of the ALJ's oral decision or service of his written decision by filing an appeal brief with the Enforcement Docket Clerk.

Respondent has not satisfied any of the procedural requirements set forth in 49 C.F.R. § 1503.657. Even assuming he had met the procedural requirements for this appeal, he admitted to the facts that gave rise to the civil penalty in his Answer to the Complaint. Respondent

expressed concern about the amount of the civil penalty, but TSA has some discretion to determine the amount of a civil penalty. In accordance with 49 U.S.C. § 46301, violations of the transportation security regulations may result in penalties of up to \$11,000. In this case, TSA chose to assess a penalty at the higher end of the range because this was Respondent's second violation of the security regulations. On April 4, 2012, Respondent had a firearm in his possession when he went through security screening in Portland, Oregon. TSA assessed a civil penalty in the amount of \$700 in that case.

Based on the governing law and record below, the ALJ decision is affirmed and the appeal is denied. A party may petition for judicial review of a Final Decision and Order in accordance with 49 U.S.C. §46110.



Huban A. Gowadia, Ph.D.
Deputy Administrator and TSA
Decision Maker

Dated: 1-9-18

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 2018 the foregoing Final Decision and

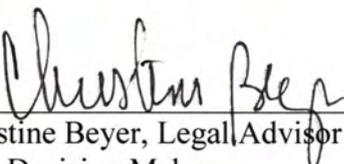
Order on Respondent's Request for Review by the TSA Decision Maker was sent to:

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Christine Beyer, Legal Advisor to
TSA Decision Maker