



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 1st day of March, 2018

**Third Party Complaint of**

**Tasha Grant**

**v.**

**Saudi Arabian Airlines Corporation**

**Violations of 49 U.S.C. §§ 40101(a)(1), 40127(a),  
41310(a), 41712(a), and the First and Fifth  
Amendments to the U.S. Constitution**

**Docket DOT-OST-2015-0094**

**Served March 1, 2018**

**ORDER DISMISSING THIRD-PARTY COMPLAINT AND REQUEST TO COMMENCE  
ENFORCEMENT PROCEEDINGS**

On April 28, 2015, Tasha Grant (“Ms. Grant”) filed a third-party complaint under 14 CFR 302.404 against Saudi Arabian Airlines Corporation (“Saudia”) for alleged violations of 49 U.S.C. §§ 40101(a)(1), 40127(a), 41310(a), 41712(a), and the First and Fifth Amendments to the U.S. Constitution. Ms. Grant alleges that Saudia discriminated against her based on her sexual orientation. We find that Ms. Grant’s Complaint fails to state a claim upon which relief can be granted and dismiss the Complaint.

**Complaint**

In her complaint,<sup>1</sup> Ms. Grant sets forth the following allegations:

1. Saudia is owned by and is an instrumentality of the government of Saudi Arabia, and must adhere to all laws and regulations issued by the government of Saudi Arabia. The policy of the Saudi government with respect to lesbian, gay, bisexual, and transgender (“LGBT”) persons is also the policy of the Saudia.

<sup>1</sup> Ms. Grant filed a Complaint on April 28, 2015. She subsequently filed a First Amended Complaint on May 3, 2015. We proceed in our review with the amended complaint as the operative pleading in this case. See 14 CFR 302.5.

2. All Saudia flights from the United States transit through either Riyadh or Jeddah, Saudi Arabia, at which point passengers must change to their connecting flights. United States citizens who are transiting through Saudi Arabia are not required to obtain a visa unless their scheduled layovers in Saudi Arabia are 12 hours or longer.
3. Saudia markets flights directly to U.S. citizens by selling tickets on its U.S. website and through third-party ticket agents in the United States.
4. Ms. Grant is a citizen of the United States who resides in New York, New York.
5. On April 10, 2015, Ms. Grant contacted Saudia's reservations office and advised the airline representative that she was interested in booking a flight on Saudia from New York to Manila, Philippines. This flight has an approximately 10-hour layover in Riyadh.
6. Ms. Grant advised the representative that she is openly gay and that she wanted to travel with her partner, a woman who wears men's clothing.
7. The airline representative informed Ms. Grant that she could experience difficulties if she were to hold hands with her partner either on the plane or at the airport and advised her to conceal the fact that she is gay.
8. On April 14, 2015, Ms. Grant's counsel wrote a letter to the Saudi Ambassador to the United States seeking clarification as to whether openly gay couples would be permitted to travel on Saudia or transit through Saudi Arabian airports. Ms. Grant's counsel also stated that the airline representative informed Ms. Grant that she should refrain from holding hands with her partner and conceal the fact that she is gay.
9. Legal counsel for the government of Saudi Arabia responded by letter dated April 29, 2015. Counsel for the government of Saudi Arabia did not provide guidance as to whether two gay people would be permitted to hold hands either onboard the aircraft or in the transit area of the airport.
10. Openly gay couples are prohibited from holding hands with each other or engaging in other public displays of affections in the transit areas of the Riyadh or Jeddah airports as well as on board Saudia flights.
11. Ms. Grant's partner would not be permitted to travel on Saudia nor be present in the transit areas of Saudi Arabian airports because she is a woman who dresses like a man. Ms. Grant is, therefore, prohibited from being accompanied by her partner on Saudia.

Count I – Violation of 49 U.S.C. § 40101

Ms. Grant alleges that overtly LGBT individuals flying from the United States may be subjected to criminal sanctions while waiting in the airport transit areas of the Riyadh or Jeddah airports for their connecting flights. Ms. Grant also alleges that overtly LGBT persons may be subject to harassment or intimidation while on Saudia aircraft when flying from the United States. Ms. Grant states that the Saudia and/or the Saudi Arabian authorities must provide assurances that transit passengers from the United States will not be subject to any form of detention, harassment, coercion, or intimidation due to their sexual orientation while on board a Saudia flight or waiting in the Riyadh or Jeddah airport transit areas. Ms. Grant argues that if the Saudia and/or the Saudi Arabian authorities are unable to provide such assurances, then the Secretary of Transportation must revoke Saudia's permit to engage in foreign air transportation pursuant to 49 U.S.C. § 41304(a).

Count II – Violation of 49 U.S.C. § 41712(a)

Ms. Grant alleges that Saudia engages in unfair practices and unfair methods of competition in air transportation, in violation of 49 U.S.C. § 41712(a),<sup>2</sup> by offering tickets for sale in the United States without informing the public of the prohibitions imposed upon LGBT passengers. Ms. Grant states that Saudia has a duty to prominently display on its U.S. website, in its marketing materials, and to inform third-party ticket agents of any restrictions that apply to LGBT passengers. Ms. Grant asserts that Saudia's failure to provide such information deprives prospective passengers of the right to decide whether they wish to fly on Saudia or transit through Saudi Arabia, and thus violates 49 U.S.C. § 41712(a).

Count III – Violation of 49 U.S.C. § 40127(a)

Ms. Grant argues that Saudia discriminates against LGBT individuals on the basis of sex in violation of 49 U.S.C. § 40127(a).<sup>3</sup> Specifically, Ms. Grant asserts that Saudia cannot accept overtly LGBT persons as passengers due to restrictions imposed by Saudi Arabian law. In addition, Ms. Grant alleges that LGBT individuals may also be subject to harassment, coercion, or intimidation while on the airplane, and may further be charged with criminal conduct while transiting through either Riyadh or Jeddah. Ms. Grant also asserts that Saudia refuses to provide transportation to a woman who dresses like a man, or a man who dresses like a woman.

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<sup>2</sup> 49 U.S.C. § 41712 prohibits an air carrier or foreign air carrier from engaging in unfair or deceptive practice or unfair methods of competition in air transportation or the sale of air transportation.

<sup>3</sup> 49 U.S.C. § 40127 prohibits an air carrier or foreign air carrier from subjecting a person in air transportation to discrimination on the basis of race, color, national origin, religion, sex, or ancestry.

Count IV – Violation of 49 U.S.C. § 41310

Ms. Grant alleges that by engaging in the conduct described above, Saudia engages in unreasonable discrimination in foreign air transportation in violation of 49 U.S.C. § 41301(a).<sup>4</sup>

Count V – Violation of First and Fifth Amendment

Ms. Grant asserts that an order of the Secretary of Transportation authorizing discrimination against LGBT travelers based on sex or sexual orientation would violate the First Amendment and the due process and equal protection provisions of the Fifth Amendment.

**Answer of Saudi Arabian Airways**

On June 17, 2015, Saudia answered the Amended Complaint. It states that Saudia’s policy is to provide safe and secure passage to all persons who choose to travel on its aircraft. Saudia states it has no policy of prohibiting travel by anyone on the basis of their sexual orientation, and has no intention of harassing, coercing, or intimidating anyone on that or any other inappropriate basis. Saudia further states that it has no policy regarding passengers holding hands or engaging in public displays of affection.

Saudia asserts that Ms. Grant did not allege any actual injury in the complaint, and that the complaint is based entirely on speculation about hypothetical events that might occur in the event that Ms. Grant were to actually purchase a ticket to travel on Saudia. Saudia states that the Complaint does not identify any actual instance in which a traveler’s sexual orientation has become any sort of issue while flying on Saudia. Saudia further asserts that the complaint does not identify any actual or pressing danger to the safety and security of air passengers. Thus, Saudia asserts that the complaint is not an appropriate use of the Department’s enforcement process.

In addition, Saudia states that it has no authority or control over what may occur after a passenger disembarks from an aircraft in Saudi Arabia and enters the common areas of the airport. Saudia asserts that it does not own, lease, or control the transit areas of the airports where passengers wait for connecting flights.

For the foregoing reasons, Saudia denies that Ms. Grant is entitled to any relief and requests that Ms. Grant’s complaint be dismissed in its entirety without further investigation or action.

**Further Pleadings**

On June 23, 2015, Ms. Grant filed a motion with the Department for an order mandating that Saudia provide a more definite answer and a motion for leave to file the same.<sup>5</sup> Ms. Grant asserts that Saudia’s answer fails to address the allegation that she was advised by the Saudia sales

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<sup>4</sup> 49 U.S.C. § 40301(a) prohibits “[a]n air carrier or foreign air carrier [from subjecting] a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.”

<sup>5</sup> Docket No. DOT-OST-2015-0094-0007.

representative to conceal the fact that she was gay and to refrain from holding hands with her partner on-board the aircraft. Ms. Grant argues that Saudia's answer that it has "no policy regarding passengers holding hands" is vague and subject to multiple interpretations. Ms. Grant requests the Secretary to direct Saudia to answer the specific and narrow question of whether an openly gay couple will be permitted to hold hands with each other while seated aboard the aircraft and to disregard the portions of Saudia's answer that seek dismissal of the complaint.

In its June 30, 2015, response to Ms. Grant's motion, Saudia states that Ms. Grant's motion should be denied.<sup>6</sup> Saudia asserts that it provided a full, complete, and detailed answer to the First Amended Third Party Complaint filed by Ms. Grant.

### **Decision**

We have carefully considered Ms. Grant's formal third-party complaint, and we are dismissing the complaint on the merits for the reasons set forth below.

In her formal third-party complaint, Ms. Grant has not offered a single instance in which she has suffered harm while traveling on Saudia and transiting Riyadh or Jeddah. Nor has she provided evidence that she has actually been denied transportation on Saudia or free passage through Riyadh or Jeddah. Furthermore, Ms. Grant has not provided evidence that Saudia prevented her from purchasing a ticket. By her own admission, Ms. Grant never attempted to purchase a ticket to fly on Saudia. Nor has Ms. Grant provided evidence that Saudia refused to provide transportation or sell a ticket for air transportation to her partner. Rather, every assertion of unlawful discrimination made in Ms. Grant's complaint against Saudia relies on assumptions and/or unsupported conclusions.

In answer to Ms. Grant's allegations that Saudia cannot accept overtly LGBT persons as passengers due to restrictions imposed by Saudi Arabian law and/or that they may be subject to detention, harassment, coercion, or intimidation while transiting Riyadh or Jeddah due to their sexual orientation, Saudia states that it has no policy of prohibiting travel by anyone on the basis of their sexual orientation, and has no intention of harassing, coercing, or intimidating anyone on that or any other inappropriate basis. Saudia further states that it has no policy regarding passengers holding hands or engaging in public displays of affection.

With regard to Ms. Grant's assertion that she may be subject to detention, harassment, coercion, or intimidation upon arrival in the Saudi Arabia in violation of 49 U.S.C. § 40101(a)(1), the actions of the airport officials in Saudi Arabia are not imputed to Saudia for purposes of 49 U.S.C. § 40101(a)(1). Accordingly, we find this argument unpersuasive.

With respect to Ms. Grant's assertion that the Respondent has an obligation under 49 U.S.C. § 41712 to prominently display on its U.S. website, in its marketing materials, and to inform third-party ticket agents of any restrictions that apply to LGBT passengers, Ms. Grant has failed to provide adequate evidence that Saudia has any such restrictive policies towards LGBT passengers.

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<sup>6</sup> Docket No. DOT-OST-2015-0094-0008.

In light of the speculative allegations set forth by Ms. Grant, demonstrated by the facts asserted in Saudia's certified answers, this complaint is not sufficient to warrant further investigation.

ACCORDINGLY, I dismiss the Complaint filed in Docket DOT-OST-2015-0094 with prejudice.

This order is issued under authority assigned in 14 CFR 302.406(a)(2) and shall be effective as the final action of the Department within 30 days after service. A copy will be served on Ms. Grant.

**BY:**

**BLANE WORKIE**  
**Assistant General Counsel for**  
**Aviation Enforcement and Proceedings**

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