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Legal head winds buffet 1-eyed pilot

Island Air claims he is not disabled but still declined to hire him

By Mark Niesse
Associated Press

KEALAKEKUA, Hawaii » Airplane pilot Bruce Pied, who is blind in one eye, says he has not lost his depth perception and can still shoot a basketball, estimate distances and reach out to touch objects.

But should he be flying an airliner carrying scores of passengers around the Hawaiian Islands?

The Federal Aviation Administration says "yes" and has certified Pied and hundreds of other monocular pilots around the country -- 209 to fly airline transports, 476 to fly other commercial planes and 1,912 to fly private aircraft, according to the latest count in October.

Since 1990, however, Pied has been fighting the refusal of Aloha Island Air, now Island Air, to hire him to pilot its passenger planes.

The Hawaii Civil Rights Commission eventually ordered the airline to pay Pied \$1.4 million for discriminating against him, but the airline appealed.

Pied's career is still stalled, and he has not received any of the money.

Then just last month, the Hawaii Supreme Court cleared the record in the case and ordered a new jury trial of Pied's lawsuit against Island Air.

That is not what he was hoping to get from the court.

"To say we're going to start over from the beginning now, it's just not right. It's not fair, it's not moral, it's not justice, that's for sure," Pied, now 53, said in an interview at his Big Island home, where he grows coffee and macadamia nuts on a farm.

The airline's appeal was based on the idea that because Pied proved he was capable of flying, he did not qualify as "disabled" under the law, even if he could show that his impairment was the reason the job offer was rescinded.

The classic Catch-22 is found in many employment discrimination claims, according to Pied's attorney, David Simons.

"Their argument is that Mr. Pied is not disabled. Therefore, they can discriminate against him," Simons said.

The executive director of the commission that decided in Pied's favor, Bill Hoshijo, said its decision "could become meaningless" with a new trial.

"Basically, it brings everyone back to square one," Hoshijo said.

Since filing the lawsuit, Pied has worked for several other airlines,

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but he has not flown commercially since 2002. He says he is now looking for work to pay for flight school tuition for his 20-year-old son, Taizen, who he is training to become a pilot.

Pied says he wishes he had never made a phone call 16 years ago that ruined his career.

Although he did not have to, he voluntarily told his new employer about his dead eye. Then, Aloha Island Air's chief pilot rescinded the job offer, even though Pied had the FAA approval to fly.

With only one eye, Pied had logged 1,200 hours in multiengine flight time.

Ever since, his case has been bouncing around in the courts -- an endless string of administrative hearings, Circuit Court decisions, appellate rulings and high-court opinions.

Pied lost the vision in his left eye at age 18 when he got herpes zoster -- also known as shingles -- in his face. The shingles burned out his optic nerve.

He never recovered any sight in the eye, which still moves with his good eye and appears to have nothing wrong with it.

He got his medical waiver by taking a test flight with an FAA inspector, and then flew for a few small carriers before being invited to Aloha Island Air's ground school.

Pied's case raises questions about whether it is discrimination or just common sense to keep someone with only one working eye out of the skies.

It is up to each airline to choose whether it wants to employ pilots after they have shown the FAA that they are qualified and safe, said David Castelveter, a spokesman for the Air Transport Association, which lobbies for the airlines in Washington.

FAA spokesman Les Dorr said the agency does not track how many of the more than 2,500 certified one-eyed pilots are currently flying. Dorr confirmed that Pied is medically certified to fly as an airline transport pilot and last renewed his certification just two months ago.

Island Air does not want to comment on the case, said spokeswoman Moani Wright-Van Alst.

But the airline has made several arguments in court over the years for why Pied did not get the job. The airline has said it wants to hire the safest pilots available, at the same time insisting that Pied is not disabled because he has learned to cope with his vision impairment.

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