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Lawsuit Against "Drone Slayer" Dismissed

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The federal district court for the Western District of Kentucky dismissed a lawsuit filed by a UAS pilot, David Boggs, against the "drone slayer" William Meredith. In 2015, Meredith shot down Boggs's UAS while it was flying over Meredith's property. Meredith claimed the UAS was trespassing on his property and invading his family's privacy. Boggs filed suit against Meredith in federal court, seeking a declaration that the UAS was an aircraft operating in navigable airspace when it was shot down, and seeking damages under state law for the destroyed UAS.

The court dismissed the lawsuit. Federal courts are courts of "limited jurisdiction" and generally only have jurisdiction over civil action arising under the Constitution, federal laws, or treaties of the United States. While Boggs's claim for damage was based upon state law, Boggs argued that his claim against Meredith fell under an exception for cases that "implicate significant federal issues" because the issue of whether the UAS constituted an aircraft operating within controlled airspace was a federal issue determinable by the exclusive jurisdiction of the FAA.

The district court disagreed, ultimately concluded that resolution of the issue of whether the UAS was flying on Meridith's property, as opposed to federal airspace, was not "significant to the federal system as a whole" when determining Meredith's liability for the state law claims.

The contours of what constitutes lawful operation of a UAS in navigable airspace, versus unlawful trespass over private property, is a significant issue for the evolving UAS industry, particularly given that FAA regulations currently limited UAS operation to 400 feet AGL. The significance of this issue will be further heightened as additional states and local municipalities contemplate additional legislation regarding local UAS operations. For example, Oklahoma is currently considering legislation which authorizes anyone who owns property to damage or destroy a UAS without being held civilly liable so long as the UAS is within 400 feet of the property-literally the entire currently navigable airspace permitted by FAA regulations.

It is likely that there will be later situations where federal courts may find jurisdiction over cases that more clearly implicate federal issues (for example, challenges arguing that state legislation is preempted by federal law). Yet, as cases like the "drone slayer" illustrates, some courts will find that damage to a UAS allegedly operating within navigable airspace, by itself, is insufficient to confer federal jurisdiction. Unfortunately, until federal courts decide to weigh in, this will likely lead to a variety of state-based conflicting results regarding an issue that is ultimately governed by federal law.

The "drone slayer" decision is *Boggs v. Merideth*, No. 3:16-CV-00006, 2017 U.S. Dist. LEXIS 40302 (W.D. Ky. March 21, 2017).