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Brazilian Judge Detains Pilots in Midair Collision

By PAULO PRADA

RIO DE JANEIRO, Oct. 3 — A Brazilian judge ordered the police late Monday to confiscate the passports of the two American pilots who were flying the business jet that apparently collided Friday with an airliner. The airliner crashed, killing all 155 people aboard, but the business jet was able to land safely.

The order is part of a judicial and technical investigation to determine whether negligence or disregard for air-traffic instructions might have led to the collision, above the Amazon rain forest.

Several theories mentioned by investigators, the authorities said, suggested that the pilots of the smaller aircraft deviated knowingly from their assigned altitude and unwittingly into the course of the airliner, a Boeing 737-800 operated by Gol Linhas Aéreas Inteligentes, [Brazil](#)'s second-largest carrier.

The judge, in Peixoto de Azevedo, the city in Mato Grosso State nearest the crash site, issued the order to confiscate the American pilots' passports at the request of the local prosecutor. Under Brazilian law, prosecutors can investigate accidental deaths as well as crimes.

While the pilots have not been charged with any wrongdoing, the order was issued as a "preventive measure," said Célio Wilson de Oliveira, the state secretary for justice and security. Adriano Alves, the prosecutor, said in a telephone interview that taking the pilots' passports was "necessary to make sure two very important witnesses remain in Brazil until this investigation is carried out."

The biggest mystery remains how two modern aircraft failed to detect each another or alert air-traffic controllers of a dangerous flight path. Like the Boeing, which was in its first month of service, the business jet, an Embraer Legacy 600, was equipped with a warning device called a traffic alert and collision avoidance system.

Determining what warning the systems gave is easy if the cockpit voice recorders are available, because their alert is given by a mechanical voice. If the sound recording is not available, the flight data recorder would also give clues, as it would record how the pilots maneuvered their planes, perhaps in response to a warning.

Because the voice and data recorders of the Legacy have not yielded enough information to conclusively explain the collision, the authorities were hoping for new clues from the recorders salvaged Monday from the wreckage of the Boeing. But investigators said Tuesday that they had only parts of the boxes, and they left unclear whether they could recover any data or voice information from what they had.

Investigators have publicly provided few details of their findings thus far.

But Mr. Alves, the prosecutor, said his office had information from investigators suggesting that they were also considering theories that would assign blame to the pilots of the smaller craft, which was flying from São José dos Campos, in southeastern Brazil, north to Manaus, in the central Amazon.

“Several hypotheses point to the possibility of pilot error,” he said.

One theory, Mr. Alves said, holds that the pilots ignored instructions to descend to 36,000 feet from 37,000 feet once they flew past Brasília, the capital. Another, he said, suggests that the pilots, without alerting controllers, decided to fly higher than they were supposed to in an effort to avoid turbulence, save time or save fuel.

Since the accident, the two pilots — Joseph Lepore, 42, of Bay Shore, N.Y., and Jan Paladino, 34, of Westhampton, N.Y. — have remained in Brazil for questioning and on Tuesday were in Rio for a medical examination. Employed by ExcelAire Service Inc., a charter aircraft company based in Ronkonkoma, N.Y., they were flying the Brazilian-made business jet on the first leg of its inaugural flight back to the United States.

Lisa Hendrickson, a spokeswoman for ExcelAire, said that the pilots had retained lawyers in Brazil and that the company, in compliance with American regulations, could not comment on the investigation.

Maryanne McKay, a press attaché with the United States Consulate in Rio, said the pilots were cooperating with the Brazilian authorities.

On Tuesday, recovery crews continued the salvage operation at the Boeing’s crash site, recovering the remains of nearly 30 of the victims, including the pilot and co-pilot, still lodged in the cockpit’s wreckage. Using cargo planes and helicopters to reach the area, workers are ferrying the remains to a nearby command station, from where they will be taken to a laboratory in Brasília for identification.

Matthew L. Wald contributed reporting from Washington.

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