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AO 91 (Rev. 08/09) Criminal Complaint

AUSA Kevin M. Mulcahy, 313-226-9713
Special Agent Ryan E. Blanton, 313-965-2323

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

United States of America

v.

RICHARD JAMES KURTZ,

Case: 2:14-mj-30489

Judge: Unassigned,

Filed: 09-22-2014 At 09:39 AM

USA v. SEALED MATTER(CMP)(MLW)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 1998-March 1999 & Nov. 2011 in the county of Wayne in the Eastern District of Michigan, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. sec. 2251(a)	Production of Child Pornography
18 U.S.C. sec. 2252A(a)(1)	Transportation of Child Pornography
18 U.S.C. sec. 2252A(a)(5)	Possession of Child Pornography

This criminal complaint is based on these facts:

See attached affidavit

Continued on the attached sheet.

Ryan E. Blanton
Complainant's signature

Ryan E. Blanton, FBI Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: September 22, 2014

Donald G. Scheer
Judge's signature

City and state: Detroit, Michigan

Donald Scheer, United States Magistrate Judge
Printed name and title

AFFIDAVIT

I, Ryan E. Blanton, a Special Agent (SA) with the Federal Bureau of Investigation (FBI), Detroit Division, being duly sworn, depose and state as follows:

1. I have been employed as a Special Agent with the FBI since August 2009, and am currently assigned to the FBI Detroit Division's Violent Crime Task Force. While employed by the FBI, I have investigated federal criminal violations related to bank robberies, Hobbs Act violations, violent gangs, Internet fraud, computer intrusions, and the FBI's Innocent Images National Initiative, which investigates matters involving the online sexual exploitation of children. I have gained experience through training at the FBI Academy, post Academy training, and everyday work related to conducting these types of investigations.
2. As a federal agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.
3. I am submitting this affidavit in support of a criminal complaint and arrest warrant authorizing the arrest of RICHARD JAMES KURTZ for violations of Title 18, United States Code, Section 2251(a), production of child pornography; Title 18, United States Code, Section 2252A(a)(1), transportation of child pornography; and Title 18, United States Code, Section 2252A(a)(5)(B), possession of child pornography.
4. The statements in this affidavit are based on the investigation of this matter by your affiant and other Agents. Since this affidavit is being submitted for the limited

purpose of securing a complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that RICHARD JAMES KURTZ produced, transported, and possessed child pornography.

BACKGROUND OF THE INVESTIGATION

Kurtz's Arrest and the Collection of His Belongings

5. In November 2011, RICHARD JAMES KURTZ (KURTZ), a priest for the Chicago – Detroit Province of the Society of Jesus (Jesuits), was arrested for the sexual abuse of a minor. The offense occurred in Douglas County, Colorado, in 2001. At the time of his arrest, KURTZ was residing in a Jesuit property in Chicago, Illinois. According to records provided by the Jesuits, KURTZ had moved to Chicago from a Jesuit property in Clarkston, Michigan, just before his arrest. Jesuit records show that KURTZ lived in Clarkston, Michigan, until November 2011, the same month he moved to Chicago and the same month he was arrested on the Colorado warrant. Despite having just moved to Chicago in November 2011, KURTZ kept several boxes of material at the facility in Clarkston.
6. Following KURTZ's arrest, two Jesuit priests collected KURTZ's belongings from the Jesuit properties in Chicago, Illinois, and Clarkston, Michigan. While collecting KURTZ's belongings, the priests observed material containing images of young boys, under the age of sixteen years old, both clothed and nude. Some of the images

observed by the priests appeared to have come from the Internet, while others were developed on photographic paper. KURTZ'S belongings—both from Chicago and Clarkston—were turned over to the lawyers representing the Chicago-Detroit Province of the Society of Jesus, who in turn released them to the FBI office in Chicago in January of 2012.

7. In July of 2012, FBI Chicago turned over KURTZ's property to FBI Detroit for investigation and possible prosecution in the Eastern District of Michigan.

Material From Kurtz in Clarkston

8. In February of 2014, your Affiant completed the review of KURTZ's belongings collected from both the Clarkston and Chicago facilities. Among KURTZ's materials from the Clarkston facility were:

- a. One box of KURTZ's property contained Hi8 video cassettes with recorded locker room footage of the University of Detroit Jesuit High School (UDJHS) hockey team. Several players are filmed naked in the recorded video footage. Also contained in the box were optical disks and floppy disks. When previewed, the optical and floppy disks were found to contain image files of both prepubescent and pubescent males posing nude or partially clothed with their genitals exposed and/or engaging in sexual activity. Still images of material contained on the Hi8 video cassettes were also found on the previewed disks.

- b. A second box of KURTZ's property contained optical and floppy disks containing image files of both prepubescent and pubescent males posing nude or partially clothed with their genitals exposed and/or engaging in sexual activity. Still images of the locker room footage listed above were also present on the previewed disks.
- c. A third box of KURTZ's property contained Video Home System (VHS) cassette tapes with recorded locker room footage of the University of Detroit Jesuit High School hockey team.
- d. A fourth box of KURTZ's property contained printed and photographic material depicting prepubescent and pubescent males posing nude or partially clothed with their genitals exposed and prepubescent and pubescent males engaging in sexual acts. Also of note was the following photographic material:
 - i. Photographs of clothed juvenile males taken at what appears to be the Henry Ford Museum in Dearborn, Michigan. The photographs are labeled. The labels on the photographs correspond to handwritten notes stored with the photographs that describe the genitalia of the pictured minors. The observations in the notes seem to have been made while the pictured minors were urinating in the bathroom at the museum.

- ii. Photographs of a sleeping juvenile male whose genitals are exposed. The juvenile is lying on his back with the sheets/blankets pulled down.
- iii. Photographs of a sleeping juvenile male who is clothed but has his underwear exposed as his sheets/blankets are pulled down.

9. The Hi8 video cassettes described above (with recorded locker room footage of the UDJHS hockey team) are the brand Sony. I know that Sony does not produce and has not produced Hi8 tapes in the State of Michigan. Thus, those tapes were made using materials that had previously traveled in interstate and foreign commerce.

Material From Kurtz in Chicago

10. Your Affiant also completed a review of KURTZ's belongings from the Chicago facility. In one box, your Affiant recovered printed and photographic material depicting prepubescent and pubescent males posing nude or partially clothed with their genitals exposed. Approximately 25 of the images reviewed would meet the federal definition of child pornography, in that they involve the lascivious display of the genitals of the boys depicted. In those images, some of the boys are holding their penises or otherwise staring at their penises with the focal point of the picture being the genitals of the boys.

11. In a second box of material from Chicago, your Affiant reviewed several printed and photographic material depicting prepubescent and pubescent males posing nude or

partially clothed with their genitals exposed. At least two of those images meet the federal definition of child pornography, in that the images depict the lascivious display of the genitals of the boys. Both of those images, moreover, were stamped with the name of a website from which the images were likely downloaded or otherwise obtained.

Computer Forensic Review of Removable Media Seized from Kurtz's Belongings

12. On April 17, 2014, a forensic review of all removable computer storage media found in KURTZ's property was completed. This media was contained in KURTZ's material from the Clarkston facility. During the review, approximately 2,280 image files containing child pornography were identified. Among the identified image files containing child pornography were images depicting prepubescent and pubescent children posing nude and/or engaging in sexual acts. The majority of the images were of prepubescent and/or pubescent males.

Identifying the Victims of the Locker Room Footage

13. Review of the recorded locker room footage from the UDJHS hockey team revealed one victim (Victim 1) who was filmed talking with another player after a game and undressing until nude. Other instances of nudity were present in the footage; however, no identifiable faces could be seen.

14. On 05/12/2014 and 06/11/2014, Witness 1 was interviewed. During the interviews, Witness 1 provided the following information:

- a. Witness 1 graduated from UDJHS in 1999 and was involved with the hockey program during his senior year.
- b. KURTZ would often bring a compact video recorder and record parts of the hockey games. KURTZ would make appearances in the locker room either before or after games.
- c. Witness 1 noted that KURTZ would sit on the locker room benches next to the players and chat with them as they undressed. Witness 1 recalled times when KURTZ sat in the locker room while the players were changing and had his video camera sitting next to him on the bench. The video camera was positioned so that it could record the players and the lens cap was not in place. Witness 1 also remembered seeing KURTZ's hand obscuring the recording light on the video camera so no one could not tell whether the video camera was recording or not.

During the interviews, Witness 1 was provided pictures of some of the UDJHS hockey players for identification. The provided pictures were still images from the recorded locker room footage of the UDJHS hockey team found in KURTZ's property. Witness 1 confirmed that the pictures were of players from the 1998-1999 UDJHS hockey team. Witness 1 identified Victim 1.

15. On 05/22/2014 and 06/16/2014, Witness 2 was interviewed. During the interviews,

Witness 2 provided the following information:

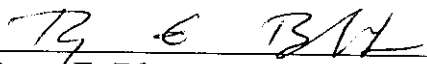
- a. Witness 2 graduated from UDJHS in 1999 and was involved with the hockey program during the 1995-1996, 1996-1997, and the 1998-1999 seasons.
- b. Witness 2 recalled that KURTZ brought a video camera to all the games that he attended and would spend time in the locker room with the players before and after the games.
- c. Witness 2 remembered that KURTZ brought a video camera into the locker room on several occasions. Witness 2 stated that KURTZ would sit on the bench next to the players as they would dress/undress and chat with them. Witness 2 noted that while chatting with the players, KURTZ would place his video camera on the bench next to him. Witness 2 did not know if the video camera was recording while KURTZ was in the locker room.

During the interviews, Witness 2 was provided pictures of some of the UDJHS hockey players for identification. The provided pictures were still images from the recorded locker room footage of the UDJHS hockey team found in KURTZ's property. Witness 2 confirmed that the pictures were of players from the 1998-1999 UDJHS hockey team. Witness 2 identified Victim 1.

16. On July 25, 2014, Victim 1 was interviewed. Victim 1 stated that he attended UDJHS from the fall of 1998 until his graduation in 2002 and played for the hockey team all four years. During the interview, Victim 1 viewed two still images from the recorded locker room footage of the UDJHS hockey team found in KURTZ's property (on the Hi8 Sony tapes). Victim 1 identified himself as the individual appearing in both provided pictures and confirmed that the images were captured during the 1998-1999 hockey season at UDJHS. Victim 1 had no knowledge that any video had been recorded of him or others in the UDJHS locker room and was a minor at the time of the recordings.

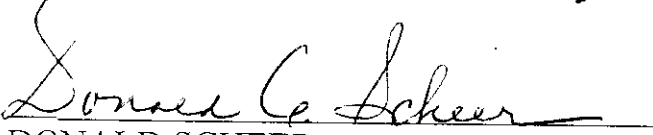
CONCLUSION

17. Based on the aforementioned factual information, your affiant respectfully submits that there is probable cause to believe that RICHARD JAMES KURTZ produced child pornographic images of Victim 1 using material that had been shipped or transported in interstate or foreign commerce, in violation of 18 U.S.C. § 2251(a). Moreover, there is probable cause to believe that RICHARD JAMES KURTZ transported child pornography in interstate commerce, to wit: transported images from Clarkston, Michigan, to Chicago, Illinois, in November 2011, in violation of 18 U.S.C. § 2252A(a)(1). Finally, there is probable cause to believe that RICHARD JAMES KURTZ knowingly possessed child pornography at a residence in Clarkston, Michigan in November 2011, in violation of 2252A(a)(5)(B).



Ryan E. Blanton
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this ^{22nd}~~19th~~ day of September, 2014.



DONALD SCHEER
UNITED STATES MAGISTRATE JUDGE