

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

United States of America

v.

Victor Stepus

Case No.

15-MJ-030 72-KAR

Defendant(s)

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 August 15, 2015 in the county of Hampden in the District of Massachusetts, the defendant(s) violated:

Code Section 18 U.S.C. § 2252(a)(2) Offense Description Receipt Of Material Involving The Sexual Exploitation Of Minors

This criminal complaint is based on these facts:

See attached Affidavit.

Continued on the attached sheet.

[Signature of Ian Smythe]

Complainant's signature

Ian Smythe, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 8/21/15

[Signature of Katherine A. Robertson]

Judge's signature

City and state: Springfield, MA

Katherine A. Robertson, USMJ

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Ian Smythe, being duly sworn, depose and state that:

Introduction

I, Ian Smythe, having been first duly sworn, do hereby depose and state as follows:

1. I have been employed as a Special Agent (“SA”) of the Federal Bureau of Investigation (“FBI”) since June 2003, and am currently assigned to the FBI’s Boston Division, Springfield Resident Agency. While employed by the FBI, I have investigated federal criminal violations related to high technology or cybercrime, child exploitation, and child pornography. I have gained experience through training with the FBI, Department of Justice, the National Center for Missing and Exploited Children, and the National Human Trafficking Center, among others, and through everyday work relating to conducting these types of investigations. I have received training in the area of child pornography and the sexual exploitation of children, and have observed and reviewed numerous examples of child pornography (as defined in 18 U.S.C. § 2256) in all forms of media, including computer media. I have conducted numerous investigations involving child pornography and child sexual exploitation. Moreover, I am a federal law enforcement officer who is engaged in enforcing federal criminal law, including 18 U.S.C. §§ 2251 and 2252A, and I am authorized by the Attorney General to request a Criminal Complaint.

2. This affidavit is submitted in support of a Criminal Complaint alleging that on or about August 15, 2015, within the District of Massachusetts and elsewhere, the defendant Victor Stepus (“Stepus” or “the defendant”) committed a violation of Title 18, United States Code, Section 2252(a)(2) (Receipt Of Material Involving The Sexual Exploitation Of Minors) (the “Subject Offense”).

3. The statements contained in this affidavit are based in part on: information

provided by FBI Special Agents; written reports about this and other investigations that I have received, directly or indirectly, from other law enforcement agents, information gathered from the service of administrative subpoenas; the results of physical and electronic surveillance conducted by law enforcement agents; independent investigation and analysis by FBI agents / analysts and computer forensic professionals; and my experience, training and background with the FBI.

4. Because this affidavit is being submitted for the limited purpose of securing authorization for the requested Criminal Complaint, I have not included each and every fact known to me concerning this investigation. Instead, I have set forth only the facts that I believe are necessary to establish the necessary foundation for the requested Criminal Complaint.

Relevant Statutes

5. Title 18, United States Code, Section 2252(a)(4)(B) provides in pertinent part:

Title 18, United States Code, Section 2252(a)(2), provides in pertinent part:

Any person who . . . (2) knowingly receives . . . any visual depiction using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, . . . if

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;

. . . shall be punished.

18 U.S.C. § 2252(a)(2).

6. The term “computer” as used herein is defined in Title 18, United States Code, Section 1030(e)(1), as “an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such

device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device.” 18 U.S.C. § 1030(e)(1).

7. Title 18, United States Code, Section 2256(1) defines a “minor” as “any person under the age of eighteen years.”” 18 U.S.C. § 2256(1).

8. Title 18, United States Code, Section 2256(2)(A) defines “sexually explicit conduct” as “actual or simulated -- (i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; (ii) bestiality; (iii) masturbation; (iv) sadistic or masochistic abuse; or (v) lascivious exhibition of the genitals or pubic area of any person.” 18 U.S.C. § 2256(2)(A).

9. Title 18, United States Code, Section 2256(5) provides that “‘visual depiction’ includes undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format.” 18 U.S.C. § 2256(5).

The Search Of The Defendant’s Residence and The Interview Of The Defendant

10. On August 12, 2015, United States Magistrate Judge Katherine A. Robertson authorized a search warrant for the defendant’s residence in Chicopee, Massachusetts. The search warrant authorized the FBI to search for, and seize, evidence of child pornography offenses, including the Subject Offense.

11. On August 21, 2015, I and other members of the FBI executed the search warrant. Inside the residence, we encountered the defendant, his wife Tatyana Stepus, his two stepdaughters, aged 20 and 16 (Stepdaughter 1 and 2, respectively), and his son, aged 6. The

defendant waived his *Miranda* rights, orally and in writing, and agreed to speak with me.

12. During the interview, which I audio-recorded, the defendant stated the following:
 - i. Several years ago, he discovered TOR through Russian pornography sites that advertised child pornography.
 - ii. For the past several years, he used his home computer to access and download child pornography two to three times per week when his wife was at work.
 - iii. He accessed and downloaded pornography through several TOR websites using the username zombe008.
 - iv. He is sexually attracted to girls aged 12 to 15 years old, and he frequently masturbated to child pornography depicting girls in that age range.
 - v. He also looked at child pornography depicting young boys, but stated that this was accidental and out of curiosity.

13. I also spoke with Stepdaughter 1, who told me:
 - a. Stepus was a heavy drinker and physically abusive towards her and Stepdaughter 2.
 - b. Approximately two months ago, Stepus physically beat Stepdaughter 2 for arguing with him.
 - c. Tatyana works at night at a local hospital, and Stepus would come home after drinking and remain alone in the house with her, Stepdaughter 2, and his son.
 - d. When Tatyana was not home, Stepus slept and bathed with his son.

14. I also spoke with Tatyana, who told me:
 - a. Stepus was a citizen of Ukraine and a lawful permanent resident alien of the United States.
 - b. Stepus's extended family lived in Canada.
 - c. She had caught Stepus cheating twice, and was continuing to live with Stepus because divorce was too expensive and they were staying together for the sake of their children.

15. Pursuant to the warrant, FBI agents seized four computers, including a Dell Mini Tower (the "Computer") and numerous digital DVDs that the defendant stated contained child pornography that he had downloaded.

The Preliminary Forensic Examination Of The Defendant's Computer

16. On or about August 21, 2015, I conducted a preliminary forensic examination of the Computer. I found approximately 8,000 images and 33 videos containing child pornography in a folders nested within the following path: c:\users\victor stepus. Notably, Stepus informed me that he had only begun to use the Computer two weeks ago. These included the following image files:¹

- a. matrixtxri745dfwonion_132617hrp_Matrixtxri_9374474_17444909.jpg.

This file depicts an approximately 7-year old female performing oral sex on an adult male while he grips her head with one hand. According to the file information, this file was created on the Computer on August 15, 2015 at 7:56 a.m.

¹ Still photographs of these five files are attached hereto as Exhibit A for *in camera* review by the Court. The Government respectfully requests that the Court return Exhibit A to the FBI following its review of Exhibit A.

b. matrixxri745dfwonion_135500lvu_1(48).jpg. This file depicts an approximately 9-year old female vaginally penetrated by an adult male. According to the file information, this file was created on the Computer on August 15, 2015 at 8:06 a.m.

c. matrixxri745dfwonion_215749emt_matrixxri745dfwonion_054126keq_1243812181734.jpg. This file depicts an approximately 8-year old naked female kneeling in front of an adult male who appears to be holding her down and choking her with a cord around her throat. According to the file information, this file was created on the Computer on August 15, 2015 at 7:56 a.m.

d. 136162396190_1084349.jpg. This file depicts an approximately 8-year old naked female laying on her back, with an adult male penis on her abdomen, which appears to be covered with ejaculate. According to the file information, this file was created on the Computer on August 30, 2014 at 8:06 a.m.

e. 4e53c2d2jp_4055133_12984507.jpg. This file depicts two approximately 10-year old naked males, one of whom is performing oral sex on the other. According to the file information, this file was created on the Computer on July 14, 2015 at 10:08 p.m.

CONCLUSION

17. Based upon the foregoing, I respectfully submit that there is probable cause to believe that on or about August 15, 2015, in Chicopee, Massachusetts and elsewhere, the defendant Victor Stepus did knowingly possess a visual depiction using a means and facility of interstate and foreign commerce and that had been mailed, and had been shipped and transported

in and affecting interstate and foreign commerce, and which contained materials which have been mailed and so shipped and transported, by any means including by computer, the producing of such visual depiction involved the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct, that is: Victor Stepus knowingly possessed a computer file which contained visual depictions of a minor under the age of 18 years engaging in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2), to wit, the following file, in violation of Title 18, United States Code, Section 2252(a)(2): matrixtxri745dfwonion_135500lvu_1(48).jpg.

Respectfully submitted,



Ian Smythe
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before this 21st day of August, 2015.



HONORABLE KATHERINE A. ROBERTSON
United States Magistrate Judge