

AO 91 (Rev. 5/85) Criminal Complaint

United States District Court

State and **FILED** DISTRICT OF

New Mexico

UNITED STATES DISTRICT COURT
UNITED STATES OF AMERICA ALBUQUERQUE, NEW MEXICO

V.

BRANDON HRONICH
Year of Birth: 1984
SSAN: XXX-XX-8128

SEP 16 2010

MATTHEW J. DYKMAN
CLERK

CRIMINAL COMPLAINT
CASE NUMBER:

10-MJ-2477

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 15, 2010 in Colfax county, in the state and _____ District of New Mexico defendant(s) Brandon Hronich knowingly distributed, received, and possessed a visual depiction of a minor engaged in sexually explicit conduct

in violation of Title 18 United States Code, Section(s) 2252(a)(2), 2252(a)(4)(B), and 2256

I further state that I am an FBI Special Agent and that this complaint is based on the following
Official Title

facts: See attached Affidavit.

Continued on the attached sheet and made a part hereof:

YES

No

Sworn to before me and subscribed in my presence,

Signature of Complainant

Ryan Hale
Federal Bureau of Investigation

September 16, 2010 at _____
Date

Albuquerque, New Mexico
City and State

U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

**IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,)
)
V.)
)
BRANDON HRONICH,)
)
SSN: xxx-xx-8128)
)
Year of Birth: 1984)

AFFIDAVIT OF RYAN HALE

Your Affiant, Ryan Hale, having been first duly sworn, does hereby depose and state as follows:

I. INTRODUCTION

1. Your Affiant is a Special Agent of the Federal Bureau of Investigation (FBI). Your Affiant has been a Special Agent (SA) since February 2008. Your Affiant is currently assigned to the Albuquerque Field Office, Cyber Crimes Squad, with a duty to investigate individuals involved in the on-line sexual exploitation of children.

2. Your Affiant has participated in investigations of persons suspected of violating federal child pornography and exploitation laws, including Title 18, United States Code, Section 2252. Your Affiant has also participated in various FBI training for the investigation and enforcement of federal child pornography and exploitation laws in which computers and computer-related media are used as the means for receiving, possessing, and distributing images depicting minors engaged in sexually explicit conduct (hereafter referred to as child pornography). Your Affiant has received training through discussions and on the job training with agents in Albuquerque currently working crimes that involve the sexual exploitation of children through computers and the Internet.

3. This affidavit will show there is probable cause in support of a criminal complaint against Brandon Hronich, (Year of Birth 1984, SSN xxx-xx-8128), for a violation of 18 U.S.C.

§§ 2252(a)(2) and 2256, that being Distribution and Receipt of Visual Depictions of Minors Engaged In Sexually Explicit Conduct, and 18 U.S.C. §§ 2252(a)(4)(B) and 2256, that being Possession Of A Matter Containing A Visual Depiction of a Minor Engaged In Sexually Explicit Conduct.

4. The statements contained in this affidavit are based upon your Affiant's investigation, training, experience, and information provided by other law enforcement officers. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, your Affiant has not included each and every fact known to me concerning this investigation. Your Affiant has set forth only the facts that your Affiant believes are necessary to establish probable cause to support a criminal complaint against Brandon Hronich, in violation of 18 U.S.C. §§ 2252(a)(2) and 2256, and 18 U.S.C. §§ 2252(a)(4)(B) and 2256.

II. RELEVANT STATUTES

5. This investigation concerns alleged violations of 18 U.S.C. §§ 2252(a)(2) and 2256, and 18 U.S.C. §§ 2252(a)(4)(B) and 2256.

6. 18 U.S.C. §§ 2252(a)(2) and 2256 prohibits receipt and distribution of any visual depiction involving the use of minors engaged in sexually explicit conduct (hereafter referred to as "child pornography") that has been shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

7. 18 U.S.C. §§ 2252(a)(4)(B) and 2256 prohibits possession of a matter which contains a visual depiction involving the use of a minor engaged in sexually explicit conduct that has been shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, or which was produced using material that had been shipped or transported in interstate or foreign commerce, by any means including a computer.

III. DETAILS OF INVESTIGATION

8. Your Affiant learned that on September 15, 2010, FBI Special Agent Richard Murray, along with investigators from the New Mexico State Police (NMSP), executed a search warrant at 404 North Lincoln Ave in Cimarron, NM. The search warrant was based on a peer-to-peer file

sharing investigation in which a computer in the residence was known to have child pornography.

9. Your Affiant learned that, on July 14, 2010, NMSP Sergeant Matt Pilon, who is assigned to the NMSP Online Predator Unit, was using peer-to-peer software to locate computers sharing files containing images of child sexual abuse. Pilon located a computer offering to participate in the trafficking of images of child sexual abuse. Pilon was presented with an Internet Protocol (IP) address of 97.119.153.145. On July 14, 2010, at 12:29 a.m. GMT, Pilon obtained a publicly available listing of the files associated with the IP address shown above. On July 15, 2010, at 12:53 a.m. GMT and again on July 15, 2010 at 7:21 a.m. GMT, Pilon obtained a publicly available listing of the files associated with the IP address shown above. In each instance, files known to constitute child pornography were included in this list and, therefore, available for distribution.

10. Your Affiant learned that, based on this information, NMSP investigators concluded, based on their training and experience, that a computer located at 97.119.153.145 was receiving, possessing and distributing images of child sexual abuse. Pilon conducted an Internet search on the origin of the IP address 97.119.153.145 and found it to be issued to Qwest Communications, which, NMSP investigators learned, does not have servers in New Mexico.

11. Your Affiant learned that, since this was a joint investigation, Pilon requested the assistance of Special Agent Christine Brittal, Immigration and Custom Enforcement. Brittal served legal process requesting the identification of the subscriber using the IP address of: 97.119.153.145 used on:

July 15, 2010, at 12:53 a.m. GMT

July 15, 2010 at 7:21 a.m. GMT

July 14, 2010 at 00:29:44 GMT

12. Your Affiant learned that Qwest Communications replied with a fax dated August 9, 2010. SA Brittal subsequently forwarded the results to Pilon. The account identified as using that IP address on the dates provided contained the following subscriber information:

Name: Albert B. Hronich

Address: 404 N. Lincoln Ave., Cimarron, New Mexico 87740

Telephone Numbers: (575) 376-2171

Length of Service: 11/06/1997 to present

NMSP investigators, therefore, obtained a search warrant of the above residence for evidence related to possession, distribution, and receipt of child pornography. Investigators executed that warrant on September 15, 2010.

13. Your Affiant learned that, concurrent with the search of the residence pursuant to the search warrant, Mr. Brandon Hronich was interviewed concerning his involvement of the distribution, possession, and receipt of child pornography. Hronich stated to NMSP Agent Joseph Casarez and NMSP Investigator Jay Ratliff that he had a previous military conviction for possession of child pornography. Hronich stated that he has struggled with child pornography and that, since his conviction, he would download child pornography using different file sharing software. After downloading the files, he would place them onto an external USB drive. After keeping the files for some time, he said he would begin to feel guilty for possessing the files and would subsequently delete them. He stated that in the last two days, he had deleted all his files using a program called "File Shredder." Hronich stated that he began struggling with this issue when he was a sophomore in high school. Hronich admitted that he not only downloaded the images but also kept the images in a file where others could download from him. Hronich stated that the internet service at his home was through Qwest Communications, which he used to distribute, receive, and possess the child pornography images.

14. Your Affiant learned that Hronich stated that he would download child pornography onto his personal computer that was located in his bedroom. He stated that he purchased the computer through eBay. He stated that if any child pornography were found on his computer, it was his and no one else's. He stated that, should a forensic analysis be performed on his computer, there may or may not be child pornography because he had deleted his files.

15. Your Affiant learned that, after concluding the interview with Hronich, Ratcliff spoke with NMSP Sergeant Pilon, who was conducting forensic previews of the computers found in the home. Pilon informed Ratcliff that, during the on-site preview of the computer that belonged to Hronich, he found approximately 170 files consistent with child pornography. Pilon told Ratcliff that this was possibly only a portion of the child pornography that could be on the computer and that a full forensic exam would be required to ascertain the amount of child pornography contained on the computer.

16. Your Affiant learned that Ratcliff viewed approximately 170 image files from Hronich's computer. Ratcliff provided the following description of some of these files:

- One image depicted a child, approximately one to two years of age, with adult male's penis in the child's mouth.
- One image depicted a female child, approximately two years of age, with her legs spread and her vagina being penetrated by an adult male's penis.
- One image depicted a sleeping child, approximately two years of age, with an adult male's penis in the child's mouth.
- One image depicted a prepubescent boy sitting on top of an adult male facing toward the adult male's penis. The boy is holding the adult male's penis, and the adult male is holding the boy's penis.
- One image depicted an infant child lying on a blanket. There is an adult male's penis placed on the child's mouth.
- One image depicted a prepubescent female performing oral sex on an adult male.
- One image depicted a prepubescent female with an adult male penis in her mouth.
- One image depicted an infant female with an adult woman holding the child's legs back, exposing the genitalia. The woman has her tongue out about to lick the child's genitalia.
- One image depicted an infant female lying down with an adult male's penis penetrating the child's vagina.

IV. INTERSTATE NEXUS

17. Based upon the statements by Hronich to investigators, specifically that he received, distributed, and possessed child pornography images via the internet, your Affiant believes that the element of "in or affecting interstate or foreign commerce" is satisfied for a violation of 18 U.S.C. §§ 2252(a)(2) and 2256. Specifically, Mr. Hronich admitted that he distributed, received and possessed visual depictions of minors engaged in sexually explicit conduct through different file sharing programs. Your Affiant knows that file sharing programs operate through the use of the internet, so as to satisfy the "in or affecting" component of interstate nexus. Additionally, your Affiant knows that Qwest servers, which Mr. Hronich used as his Internet Service Provider, are located outside the state of New Mexico. Therefore, any distributed, received, or possessed child pornography image using a file sharing program that operates through Qwest as the Internet

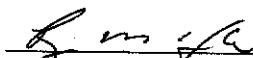
Service Provider would cross through a server out of New Mexico, so as to satisfy interstate nexus.

V. CONCLUSION

18. Based on all of the foregoing information, your Affiant submits there is probable cause to believe that Brandon Hronich violated 18 U.S.C. §§ 2252(a)(2) and 2256, that being Distribution and Receipt of Visual Depictions of Minors Engaged In Sexually Explicit Conduct, and 18 U.S.C. §§ 2252(a)(4)(B) and 2256, that being Possession Of A Matter Containing A Visual Depiction of a Minor Engaged In Sexually Explicit Conduct. Your Affiant requests a criminal complaint in this matter.

I swear that this information is true to the best of my knowledge and belief.

Respectfully submitted,



Ryan Hale
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me this 16th day of September 2010.



UNITED STATES MAGISTRATE JUDGE