

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO. 12-314
VERSUS	*	SECTION: G
MYLES FITZGERALD GUIDRY	*	

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F A C T U A L B A S I S

The defendant, **MYLES FITZGERALD GUIDRY** (hereinafter, the “defendant” or “GUIDRY”), has agreed to plead as charged to the one-count Bill of Information pending against him, charging him with receipt of child pornography, in violation of Title 18, United States Code, Section 2252(a)(2). Should this matter proceed to trial, both the Government and the defendant, **MYLES FITZGERALD GUIDRY**, do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crimes to which the defendant is pleading guilty. The Government and the defendant further stipulate that the Government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the Indictment now pending against the defendant:

The Government would show that, at all times mentioned in the Bill of Information,

the defendant, **MYLES FITZGERALD GUIDRY**, was a resident of the Eastern District of Louisiana and lived in New Orleans, Louisiana.

The Government would further present competent testimony and evidence that Special Agents from the Federal Bureau of Investigation determined that **GUIDRY** was downloading images and videos depicting the sexual exploitation of children (“child pornography”) by receiving the images from other individuals with whom he communicated via the Internet. On November 9, 2012, law enforcement officials executed a valid search warrant, based on probable cause, on **GUIDRY’S** residence in New Orleans, Louisiana. Special agents would testify that they recovered one computer that was determined to contain images and videos of child pornography during the execution of the search warrant: one (1) HP Mini Netbook, bearing serial number CNC0422BM1. Subsequently, the agents conducted a thorough search of the HP Netbook computer.

The Government would further establish through testimony and documentary evidence that **GUIDRY** knowingly used the computer to download and save images of child pornography. Further, the evidence and testimony would establish that a computer forensic search of **GUIDRY’S** seized computer and related evidence revealed multiple images depicting the sexual victimization of children on **GUIDRY’S** HP computer.

Further, the Government would establish, through introducing the results of the computer forensic search, that **GUIDRY** downloaded images and videos of child pornography, including, but not limited to, files bearing the following names and depicting the information described below:

- AARON(40).jpg: An image depicting an adult male stroking his erect penis in close proximity to a nude pre-pubescent male's erect penis.
- LITTLE AARON(5).jpeg: An image depicting an adult male performing oral sex on the erect penis of a prepubescent male.
- ALEE(9).jpg: An image depicting a nude adult male ejaculating on the nude anus of a prepubescent male.
- 197(1).jpg: An image depicting an adult male resting his penis on the mouth of a prepubescent male.

The Government would further establish, through introducing the results of the computer forensic search conducted by an FBI computer forensic examiner, that **GUIDRY** used an Internet-based, real-time video chat program (“the program”), to communicate with multiple individuals. (Users of the program can transfer or receive files to or from other users of the program.) During the course of a chat session conducted using the program, **GUIDRY** requested that the individual(s) with whom he was communicating send him images and videos depicting the sexual victimization of children. The individuals with whom **GUIDRY** spoke complied with his request and typically sent **GUIDRY** several dozen images of child pornography. As a result, in about September 2012, **GUIDRY** received approximately fifty (50) images depicting the sexual victimization of children from the individual(s) with whom **GUIDRY** was communicating via the aforementioned Internet-based video chat program.

Further, the Government would introduce post-*Miranda* statements, including one that took place on about November 9, 2012, wherein **GUIDRY** voluntarily admitted to Special Agents with the FBI that he knowingly received, downloaded, and possessed images of child pornography. According to **GUIDRY**, he used the HP Mini Netbook computer most recently to download child pornography. Specifically, **GUIDRY** stated that he had been using the HP Mini

Netbook computer most to run the video chat program, through which he chatted with one or more individuals who sent **GUIDRY** images of child pornography via the Internet. **GUIDRY** further confirmed that he received the images via the program. **GUIDRY** further stated that the images sexually aroused him when he was in a drug-induced, mentally altered state. **GUIDRY** further stated that he may have sent several of the images of child pornography he had received to other individuals via the Internet.

Forensic evidence consisting of medical testimony, law enforcement officers, and supporting documentation would establish that some of the child victims depicted in the images possessed by **GUIDRY** were of real, identifiable victims, less than the age of eighteen (18) years old at the time the child pornography was created.

Testimony would establish that some of the child victims depicted in the materials possessed and received by **GUIDRY** were of prepubescent children less than eighteen (18) years of age; to wit: less than four (4) years old and that the images of the child victims were engaged in “sexually explicit conduct,” as defined in Title 18, United States Code, Section 2256. These images and videos include pictures of adult males anally penetrating minor victims, adult males performing oral sex on minor victims, minor victims performing oral sex on adult males, and adult males ejaculating on the genitals of minor victims. All of the images depicting the sexual victimization of minors possessed by the defendant would be introduced through the testimony of Special Agents with the FBI.

Further, the Government would present evidence that would establish that the images of child pornography had been transported in interstate commerce via computer.

Further, the Government would show through testimony and documentary evidence

that the equipment used by the defendant to acquire the child pornography was transported in interstate or foreign commerce.

The above facts come from an investigation conducted by, and would be proven at trial by credible testimony from, Special Agents and forensic examiners from the FBI, other witnesses, documents and electronic devices in the possession of the FBI, and the voluntary statements of the defendant, **MYLES FITZGERALD GUIDRY**.

APPROVED AND ACCEPTED:

MYLES FITZGERALD GUIDRY Date
Defendant

MICHAEL KENNEDY, ESQ. Date
(Louisiana Bar No. _____)
Attorney for Defendant Guidry

JORDAN GINSBERG Date
(Illinois Bar. No. 6282956)
Assistant United States Attorney