

## **AFFIDAVIT**

I, Matt Wright, being duly sworn and deposed, state the following:

### **INTRODUCTION**

1. I am employed as a Special Agent of the U.S. Immigration and Customs Enforcement (ICE) and have been so employed since June of 2008. I am assigned to the Fraud/Cyber Crimes group at the Office of the Special Agent in Charge, New Orleans, Louisiana. I am currently assigned to investigate matters involving the online exploitation of children, particularly in relation to violation of Title 18, United States Code (USC) Sections 2252 and 2252A, which criminalize the possession, receipt, and transmission of child pornography.

2. As a Special Agent, I have received training and have gained experience in the investigation of criminal violations enforced by U.S. Immigration and Customs Enforcement enumerated in Titles 18 and 19 of the United States Code. Specifically, I received twenty-three weeks of training at the Federal Law Enforcement Training Center in Glynco, Georgia.

3. I was previously employed, for approximately seven years, with the Bossier and Webster Parish District Attorney's Office, in Louisiana, where I served as a Computer Crimes Investigator, a Computer Forensics Examiner and the Information Technologies Manager. During my employment with the Bossier and Webster Parish District Attorney's Office, I served as a Special Agent with the Louisiana Attorney General's Internet Crimes Against Children Task Force. While employed by the Bossier and Webster Parish District Attorney's Office, I participated or assisted in more than one hundred investigations. I have been accepted as an expert witness in the fields of Computer Forensics and Undercover Internet Investigations, in Louisiana District Court.



## **PROBABLE CAUSE**

4. Beginning at a time unknown, in the Eastern District of Louisiana, KEVIN D. ESLER, DOB XX/XX/1990, XXX-XX-6024, a 19 year-old male, the defendant herein, did knowingly possess and receive visual depictions involving the use of a minor engaging in sexually explicit conduct, and that the visual depictions were of such conduct, and that the visual depictions had been mailed, shipped, or transported in interstate or foreign commerce, or which contains materials which had been mailed or so shipped or transported, by any means including by computer, for which a person can be charged with a criminal offense in violation of Title 18, United States Code, Section 2252(a)(2).

5. On January 25, 2010, ICE received a CyberTip from the National Center for Missing Exploited Children, indicating that a subject believed to be Kevin ESLER was using XBOX Live via the Internet to exploit children. ESLER allegedly used the Internet and cellular technology through phone number 504-451-3262 to receive visual depictions involving the use of a minor engaging in sexually explicit conduct.

6. ICE learned through investigative techniques that the phone number 504-451-3262 belonged to Barry ESLER, 2257 Mary Ann Dr., Meraux, Louisiana. ICE learned through queries of law enforcement and public databases that KEVIN D. ESLER was also a resident of 2257 Mary Ann Dr., Meraux, Louisiana.

7. On January 26, 2010, ICE Special Agents made contact with ESLER near 2257 Mary Ann Dr., Meraux, Louisiana. Special Agents learned that ESLER currently resided in Laplace, Louisiana. During a consensual interview, after advice of rights and after signing a Miranda Rights waiver, ESLER advised that he used XBOX Live and sometimes communicated with minors. ESLER also advised that he sometimes received nude images of minors through his

cellular phone. ESLER signed an ICE Computer Forensics consent form for his electronic devices; XBOX and cellular phone. After providing written and verbal consent to search, and prior to handing his cellular phone to Special Agent James Podboy, ESLER began deleting text messages. ESLER was asked why he deleted the messages, and he indicated that he deleted them because he was texting with a fifteen year old girl.

8. ESLER advised agents that his XBOX was currently located at his sister's residence, in LaPlace, Louisiana, where he currently resided. ESLER also told agents there were nude images of children on his XBOX. ESLER accompanied agents to his sister's residence located at 1958 Longwood Ct., LaPlace, Louisiana, where they, with consent, retrieved his XBOX360.

9. ESLER advised agents that he had requested and received at least one sexually explicit image from a twelve year old boy, and the victim from a CyberTip complaint received by ICE.

10. Pursuant to verbal and written consent ICE Computer Forensics Agent Tonya Barrett conducted forensic exam of ESLER's cellular phone. During the examination of the phone, several images and videos of suspected child pornography were discovered. One of the sexually explicit images depicted a young boy with his hand on his penis and a filename of joe.jpg. Special Agent Matt Wright contacted the mother of the victim from the CyberTip and requested a description of the image that her son allegedly sent to ESLER; the description of the image matched the image in the file named joe.jpg. The mother confirmed that her son was only 12 years old. The data attached to the file also appeared to match the make and model of the phone which was allegedly used by the victim to take and send the sexually explicit image. ESLER identified the image with the filename joe.jpg and stated that it appeared to be the one

that he received from the boy. It was discovered during the exam that the phone number for the 12 year old boy was saved in ESLER's phone. ICE agents also found text messages between ESLER and a fifteen year old female, describing masturbation and discussing images.

11. Based upon the above information, Kevin D. ESLER did receive and possess visual depictions involving the use of a minor engaging in sexually explicit conduct, and that the visual depictions were of such conduct, and that the visual depictions had been mailed, shipped, or transported in interstate or foreign commerce, or which contains materials which had been mailed or so shipped or transported, by any means including by computer, for which a person can be charged with a criminal offense in violation of Title 18, United States Code, Section 2252(a)(2).

---

MATT WRIGHT  
Special Agent  
U. S. Department of Homeland Security  
Bureau of Immigration and Customs Enforcement

Sworn to and subscribed before me  
on this 27th day of January, 2010.

---

LOUIS MOORE  
UNITED STATES MAGISTRATE JUDGE