

UNITED STATES DISTRICT COURT

for the

Western District of Missouri

United States of America)

v.)

BRANDY ANDREW HERTL)

DOB: 9/14/1981)

Case No. No. 12-2131JCE-01

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or before the date(s) of May 1, 2012 in the County of Jasper in the Western District of Missouri, the defendant(s) violated :

Code Section
18 U.S.C. 2252(a)(2) and 2252(a)(4)(B)

Offense Description
Receipt of child pornography

This criminal complaint is based on these facts:

See attached Affidavit

Continued on the attached sheet.

/s/ Det. Ed Bailey

Complainant's signature

Ed Bailey, Task Force Officer, DHS/HSI

Printed name and title

Sworn to before me and signed in my presence.

Date: May 2, 2012

/s/ James C. England

Judge's signature

City and state: Springfield, Missouri

James C. England, United States Magistrate Judge

Printed name and title

CHARGE

On or before May 1, 2012, in Jasper County, in the Western District of Missouri, the defendant, **BRANDY ANDREW HERTL**, did knowingly receive and distribute any visual depiction that had been mailed and shipped and transported in interstate commerce, and which contains materials which had been so mailed and shipped and transported by any means, including by computer, the production of which involved the use of a minor engaging in sexually explicit conduct and which visual depiction was of such conduct, all in violation of Title 18, United States Code, Sections 2252(a)(2) and (b)(1).

**UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF MISSOURI**

Affidavit

I, Ed Bailey, being first duly sworn, do hereby depose and state that:

1. I am a Task Force Officer (TFO) with the Department of Homeland Security (DHS), Homeland Security Investigations (HSI), assigned to the Southwest Missouri Cyber Crimes Task Force, Joplin, Jasper County, Missouri. As part of the Affiant's daily duties as an DHS/HSI TFO, the Affiant investigates criminal violations of federal law relating to child exploitation including violations pertaining to the illegal production, receipt, and possession of child pornography (18 USC 2252(a)(2) and 2252(a)(4)(B)) and other federal statutes involving child exploitation. The Affiant has received training in the area of child exploitation and child pornography investigations, enticement, inducement of minors and has had the opportunity to observe and review numerous examples of child pornography in all forms of media, including computer media. The Affiant has been employed since October of 1993 as a sworn law enforcement officer and the last 4 years has been employed with the Jasper County Sheriff's Office, Carthage, Jasper County, Missouri, and has been assigned to the Southwest Missouri Cyber Crimes Task Force for the past 3 and a half years.
2. The statements contained in this affidavit are based on information the Affiant learned through personal knowledge, investigative reports from other Investigators familiar with this investigation, and conversations with Investigators familiar with this investigation and who are formally trained and experienced in conducting investigations involving child exploitation.
3. On 5/1/12 I was participating in a sex offender compliance round-up in the Joplin area. At approximately 1110 hours I was called to 1223 W. 9th Street, Joplin, Jasper County, Missouri to assist with a registered sex offender that was allegedly in possession of child pornography. I arrived on scene at 1230 hours and made contact with Jasper County Deputy Mike Shuster.
4. Shuster informed me that he and his partner arrived at the address to perform a compliance check on Brandy Andrew Hertl, W/M, DOB 9/14/1981 who lived at that address. As Shuster pulled up he noticed a male subject matching Hertl's description sitting in the front seat of a van parked by the residence. Shuster approached the male and identified him as Hertl. When asked what he was doing, Hertl spontaneously admitted that he had been downloading child pornography files on his computer. Shuster and his partner secured the computer and attempted to perform a forensic preview but were unsuccessful, so they called for assistance.

5. I approached Hertl and advised him of his Miranda rights from a pre-printed card I carry with me. Hertl acknowledged his rights and agreed to make a statement. He stated that he is living in the van and had been using his sister's wireless Internet connection [from the house] to download files. Hertl stated that he was using a file sharing client called ARES to download child pornography videos. He stated that when Shuster and the other officer approached him he was in the process of downloading 7 videos of child pornography and had previewed three of them during the downloads. He stated he had been using the search term "PTCH" [an acronym for pre teen hard core] to search for the files.
6. During questioning Hertl admitted that he has done this previously and I would possibly find as many as a dozen video files of child pornography on his computer, possibly more. Hertl gave consent for me to preview one Toshiba Satellite P745-S4320 computer [SN XB354992K], 2 thumb drives, a Toshiba tablet computer with a cracked screen, and one Samsung SPH-D720 cell phone [SN (MAC)D0176AADD584].
7. I performed a forensic preview of the Toshiba P745-S4320 laptop computer. During this preview I discovered 2 videos of child pornography and six images of nude children. The videos were both in the recycle bin. Number 1 was titled "\$ROG8NSZ.AVI" [SHA1 – WGZAFZ57ID5GJVJLVQ2RSA6QGGBWW4UE] and was 6 minutes and 45 seconds in length [size 21.9 MB]. It depicts a prepubescent female [approximately 3 – 5 years of age] performing oral sex on pubescent female. Video number 2 was titled "\$RNFGYEE.FLV [SHA1 – 5BPH5ICJBWUZZDXD456SVF6JSSPDIQSK] and was 12 minutes 38 seconds in length [size 43.2 MB]. This file shows a female approximately 12 – 14 years of age exposing her breasts in a hot tub and masturbating in front of a web cam.
8. Based upon my training and experience, I know that Toshiba does not manufacture computers in the State of Missouri.

_____/s/ Det. Ed Bailey_____

Det. Ed Bailey
Task Force Officer
DHS/HSI

Sworn and subscribed to before me this 2nd day of May, 2012

_____/s/ James C. England_____

JAMES C. ENGLAND
UNITED STATES MAGISTRATE JUDGE