

# United States District Court

State and

**FILED** DISTRICT OF

New Mexico

At Albuquerque NM

UNITED STATES OF AMERICA

V.

FEB 11 2011 *ul*

CRIMINAL COMPLAINT

CASE NUMBER:

SHABAKA GREEN

Year of Birth: 1985

SSAN: XXX-XX-8283

MATTHEW J. DYKMAN  
CLERK

11-MJ-299

(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 December 10, 2010 in Bernalillo county, in the state and                      District of New Mexico defendant(s),

received, possessed, and distributed visual depictions of minors engaged in sexually explicit conduct that had been shipped or transported in or affecting interstate or foreign commerce by computer.

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

I further state that I am a Special Agent, FBI 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  
Special Agent,  
Federal Bureau of Investigation

February 11, 2011

Date

at

Albuquerque, New Mexico

City and State

U.S. Magistrate Judge

Name &amp; Title of Judicial Officer

RICHARD L. FUGLIA  
U.S. MAGISTRATE JUDGE

  
Signature of Judicial Officer

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

UNITED STATES OF AMERICA,	)
	)
V.	)
	)
SHABAKA GREEN,	)
	)
SSN: xxx-xx-8283	)
	)
Year of Birth: 1985	)

**AFFIDAVIT OF SPECIAL AGENT 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) that has been shipped or transported in or affecting interstate or foreign commerce. 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 Shabaka Green, (Year of Birth 1985, SSN xxx-xx-8283), 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 Shabaka Green, 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 December 10, 2010, the Detroit division of the FBI sent a lead to the Albuquerque division and provided the following information: On December 10,

2010, SA Alfred Francis Burney Jr. (Burney) conducted an undercover session utilizing an enhanced version of the publically available Limewire program. Limewire is a P2P client that accesses the Gnutella Network. Whereas some clients allow for multi-source downloads, i.e. that pieces of a file are downloaded concurrently from multiple sources, the enhanced version of Limewire is specifically designed for single source downloads, i.e. that a given file is downloaded entirely from a single user. Additionally, the software has an embedded mechanism that logs the traffic between the undercover and subject computer.

9. Your Affiant learned that, during this undercover session, SA Burney conducted a search using the term "9yo." SA Burney knows this term to be associated with images of child pornography. Among the responses to the search term was one from Internet Protocol (IP) address 76.18.64.172. SA Burney executed a successful browse user command for the individual using IP 76.18.64.172. SA Burney viewed the list of files available from IP address 76.18.64.172, which displayed numerous files with filenames consistent with child pornography such as "pictures from ranchi torpedo dloaded in 2009 - pedo kdv kidzilla pthc toddlers 0yo 1yo 2yo 3yo 4yo 5yo 6yo 9yo tara babyj (204)(1).jpg". SA Burney subsequently initiated several downloads from the files listed. 62 files were downloaded from IP address 76.18.64.172 and were monitored and logged using the Enhanced P2P Client. A cursory review of the downloaded files revealed that approximately 58 of the files downloaded appeared to be minors involved in sexually explicit conduct in accordance with 18 U.S.C § 2256.

10. Your Affiant learned that, during the downloading of the files, incoming data was captured. SA Burney subsequently analyzed the captured logs created and determined that the IP address from which the files were downloaded was 76.18.64.172. A search conducted on the American Registry for Internet Number (ARIN) and Search.org provided the following information: 76.18.64.172 was registered to Comcast Cable Communications, 650 Center Road, Moorestown, New Jersey 08057.

11. Your Affiant learned that, on December 15, 2010, SA Burney served an administrative subpoena on Comcast Cable Communications for information related to IP address 76.18.64.172 to include the following: The subscriber information and service address for the individual utilizing the IP address 76.18.64.172 on 12/10/2010 from 16:25 EST through 17:30 EST.

12. Your Affiant learned that on December 17, 2010, Comcast Cable Communication provided the following information pertaining to the subscriber utilizing the IP address 76.18.64.172 on December 10, 2010:

Name: Shabaka Green  
 Address: SE Bldg 20352 St, Rm E307,  
 Kirtland AFB, NM 87117  
 Telephone: 832-289-0702  
 Email: [shabakagreen@comcast.net](mailto:shabakagreen@comcast.net)  
 Length of Service: 06/01/2009 – Present  
 Account Number: 8497950090017897  
 Type of Service: Residential High Speed Internet  
 Account Status: Active

13. Your Affiant learned that SA Mary Adkins, who is assigned to the FBI's Albuquerque Field Office, Cyber Crimes Squad, reviewed approximately 52 images of suspected child pornography obtained by SA Burney of the Detroit division of the FBI from the above IP Address. Due to the number of images downloaded, your Affiant will provide descriptions of some but not all of the images which were believed by SA Adkins to be child pornography. One image is a female, approximately seven to nine years old nude, sitting in front of a nude adult male with an erect penis. The female is holding the penis with her hand. Another image is of a female, approximately three years old, with an adult penis inserted into her anus. Another image is of a prepubescent female with a penis being inserted into her anus. Another image is of a female, approximately four to five years old and wearing a white t-shirt, with an adult penis in her mouth. Another image is of a female approximately four to five years old, nude from the waist down, with her legs spread apart and she is touching her vagina. Another image is of a female toddler, approximately three years old, nude from the waist down, with her legs spread apart and a hand holding her vagina open. Another image is of a female, approximately twelve years old, lying on a bed with her legs spread apart and an adult male is licking her vagina. Another image is of prepubescent female, approximately five to seven years old, with her legs spread apart so you can see her vagina. Another image is of a female, approximately two to three years old, with an adult penis inserted into her vagina. Another image is of two females, one approximately six to seven years old and the other approximately eight to ten years old. In

this image, the older female is hugging the younger one from behind and both of their legs are spread apart, with the focal point of the picture on their vaginas. Another image is of a female, approximately two to three years old, nude from the waist down, with her legs are spread apart and a finger inserted into her vagina. Another image is of a prepubescent female, approximately four to six years old, with her legs spread apart and an adult penis spraying what appears to be semen on the outside of her vagina. Another image is of a prepubescent female with her legs spread apart and an adult penis inserted into her vagina. Another image is of a female, approximately two to three years old, with an adult penis inserted into her vagina. Another image is of a prepubescent female with her rear end up in the air and her legs are spread apart exposing her vagina. In this image, there appears to be a liquid substance on her vagina. Another image is of a nude prepubescent female with her legs spread apart while sitting on top of a male, whose penis is inserted into her vagina. Another image is of a nude prepubescent female, approximately seven to nine years old, with her legs spread apart and an adult male performing oral sex on her in a bathroom. Another image is of a nude female, approximately four to six years old, lying on a bed with her legs spread apart and an adult male inserting his penis into her vagina. Another image is of a female, approximately three to five years old, with her legs spread apart, nude from the waist down, and spreading her vagina open with her fingers. Another image is of a female, approximately two to three years old and nude from the waist down, with an adult penis inserted into her vagina. Another is of a female, approximately two years old and nude from the waist down, sitting on an adult penis. Another image is of a nude Asian female, approximately eight to ten years old, lying on a bed with her legs spread apart and a dildo inserted into her vagina. Another image is of a prepubescent female on top of an adult male with his penis inserted into her vagina. Based on the content of these images, SA Adkins obtained a search warrant for Mr. Green's above-listed residence for evidence related to possession, distribution, and receipt of child pornography. Investigators executed that warrant on the residence of SE Bldg 20352 St, Rm E307, Kirtland AFB, NM 87117, on February 9, 2011.

14. Your Affiant learned that, concurrent with the search of Green's residence pursuant to the search warrant, Mr. Green was interviewed concerning his involvement of the distribution, possession, and receipt of child pornography. After being advised of his Miranda rights as well as his rights under Title 31 as an employee of the United States Air Force (USAF), Mr. Green stated to SA Adkins and USAF Office of Special Investigations SA Daniel Chaale that he

possesses hundreds of child pornography images on his computer, which he stores in the H-folder of the D-drive. Mr. Green stated that, since moving to New Mexico immediately following USAF Basic Training approximately two and a half years ago, he has always lived in his current residence and has utilized Comcast as his Internet Service Provider (ISP). Further, Mr. Green stated that, while living in this residence and utilizing Comcast as his ISP, he has received child pornography images primarily via the Sharaza peer-to-peer program; he does not use Limewire. Finally, Mr. Green stated that, when he was 18 years old, he once touched his Godbrother's 11 year old daughter's genital area. However, Mr. Green stated that he did not digitally penetrate her. Based on this admission, investigators asked Mr. Green to submit to a polygraph examination. Mr. Green consented to this examination.

15. Your Affiant learned that, on February 9, 2011, Immigration and Customs Enforcement polygraph examiner SA Sonny Garcia conducted a polygraph examination of Mr. Green. During the interview immediately preceding the polygraph examination, Mr. Green was asked whether he had, since his 18<sup>th</sup> birthday, touched the sexual organs of a minor other than on the one occasion he admitted in the previous interview. Mr. Green was also asked whether he had, since his 18<sup>th</sup> birthday, allowed a minor to touch his penis. To both questions, Mr. Green responded in the negative, and the polygraph examination was administered.

16. Your Affiant learned that SA Garcia's analysis of the examination results revealed significant responses to the above questions, which suggests deception. When asked to explain the results of the examination, Mr. Green provided the following information: Mr. Green recalled an incident with his Godparents' niece, who was at that time approximately ten to twelve years old. When Mr. Green was 18 years old, he went to live with his Godparents in Houston, Texas. Mr. Green stated that he was sitting on a chair working on the computer when his Godbrother's daughter jumped on his lap and began moving back and forth. This sexually aroused Mr. Green, who then pulled out his penis and began to touch the girl with it. Mr. Green further stated that he penetrated her vagina slightly using his middle finger. Mr. Green also recalled a second incident with this girl during the same summer as the incident described above. Mr. Green stated that, on this occasion, the girl followed him up to the restroom where he was going to take a shower. He began to fondle her breast and vaginal area. Mr. Green stated that, as before, he slightly penetrated her vagina using his middle finger. Mr. Green stated that he wanted to have sexual intercourse with her, but she left the restroom.



17. Your Affiant learned that Mr. Green stated that he began downloading and sharing child pornography when he was eighteen years old. Further, Mr. Green stated that he has downloaded and saved approximately seventy videos and approximately one hundred pictures containing child pornography. Mr. Green stated that, once the videos or images are downloaded, they are saved on the D-drive in the H-folder of his computer. Mr. Green stated that the H represents the word "Hentai," which is the Japanese term for "pervert." Mr. Green stated that he is aware that Sharaza not only enabled him to download images from other users but also enabled other users to download images from his computer. Mr. Green also stated that he knows it is illegal to receive, possess, and distribute child pornography.

18. Your Affiant learned that Mr. Green stated that he is sexually attracted to five to ten year old girls. Mr. Green also stated that he constantly has strong sexual urges to have sexual intercourse with young children. Further, Mr. Green stated that he considers himself to be a possible danger to society since he possesses the capacity to act on his sexual urges.

19. Your Affiant, along with Computer Analysis and Response Team Forensic Examiner Virginia Bateman, viewed five files from Mr. Green's computer that, in your Affiant's opinion and that of FE Bateman, were consistent with child pornography. The first was a picture of a prepubescent vagina with an adult penis inserted. The second was a picture of a prepubescent female with two teenage males. In this image, one of the males was inserting his penis into the female's mouth while the second was inserting his penis into the female's vagina. The third was a picture of two nude prepubescent females lying on a bed. One of the females was positioned behind the other and was inserting a dildo into the other girl's vagina. The fourth was a video of an 8-10 year old girl having intercourse with an adult male. The fifth was a video of a female, approximately two years old, sitting on an adult penis. The forensic analysis is ongoing.

#### **IV. INTERSTATE NEXUS**

20. Based upon the statements by Green 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. Green admitted that he distributed, received and possessed visual depictions of minors engaged in sexually explicit conduct through file



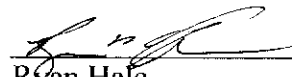
sharing programs. Your Affiant knows that file sharing programs operate through the use of the internet, so as to satisfy the "in or affecting" component of interstate nexus. Moreover, Comcast subscribers utilize Dynamic Host Configuration Protocol (DHCP) and Domain Name System (DNS) servers that are located in either Pennsylvania or Colorado. Based on this statement, a Comcast subscriber located in New Mexico would access a server outside of New Mexico when the Comcast subscriber uses their computer to access the internet.

#### **V. CONCLUSION**

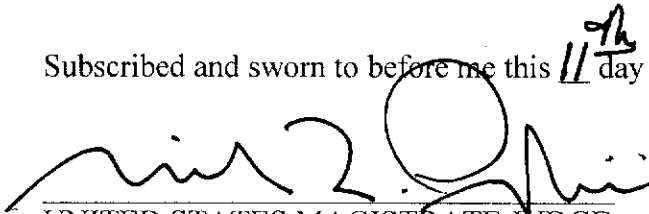
21. Based on all of the foregoing information, your Affiant submits there is probable cause to believe that Shabaka Green violated 18 U.S.C. §§ 2252(a)(2) and 2256, that being Distribution and Receipt of Visual Depictions of Minors Engaged In Sexually Explicit Conduct, and 18 U.S.C. §§ 2252(a)(4)(B) 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 11<sup>th</sup> day of February 2011.

  
UNITED STATES MAGISTRATE JUDGE  
MICHAEL L. PUGH  
U.S. MAGISTRATE JUDGE