

ATTACHMENT A

COUNT ONE

(Distribution of Child Pornography)

From on or about December 6, 2022 through on or about March 1, 2023, in Sussex County, in the District of New Jersey and elsewhere, the defendant,

GAETANO LAPEGNA,

did knowingly distribute child pornography, as defined in Title 18, United States Code, Section 2256(8), using any means and facility of interstate and foreign commerce and that had been mailed, and had been shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

In violation of Title 18, United States Code, Section 2252A(a)(2)(A).

ATTACHMENT B

I, Bradley J. Benwell, am a Special Agent with the Department of Homeland Security, Homeland Security Investigations. I am fully familiar with the facts set forth herein based on my own investigation, my conversations with witnesses and other law enforcement officers, and my review of reports, documents, and items of evidence. Where statements of others are related herein, they are related in substance and in part. Because this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

Background

1. At all times relevant to this Complaint, defendant Gaetano Lapegna (“LAPEGNA”) was a resident of Franklin, New Jersey.

The Investigation

2. From on or about December 6, 2022 through on or about March 1, 2023, law enforcement conducted undercover online sessions (the “Sessions”) using a publicly available peer-to-peer (“P2P”) software application program (the “P2P Program”). P2P is a method of communication available to Internet users through the use of special software. The software is designed to allow users to trade digital files through a worldwide network that is formed by linking computers together. Generally, when P2P software is installed on a computer, the user is directed to specify a “shared” folder. All files placed in that user’s “shared” folder are available to anyone on the worldwide network for download. A person interested in sharing child pornography with others in the P2P network need only place those files in his or her “shared” folders. Those child pornography files are then available to all users of the P2P network for download regardless of their physical location. The computers that are linked together to form the P2P network are located throughout the world; therefore, the P2P network operates in interstate and foreign commerce.

3. The P2P Program allows users to connect to and share, search, and download content. The version used by law enforcement allows law enforcement to determine the IP address through which target computers access the Internet.

4. During the Sessions, a computer user (the “Computer”) shared multiple files of child pornography using the P2P Program. The undercover law enforcement officer established a direct connection to the Computer. Several of the files being shared by the Computer had a hash value that has been identified to contain visual depictions of children engaged in sexual acts with adults. These files were shared during the Sessions by the Computer using an IP Address (the

“Target IP Address”). Video files and images of child pornography were available from the Target IP Address, which other users accessing the P2P Network could download.

5. Indeed, during the Sessions, law enforcement downloaded approximately 56 video files and 250 image files containing child pornography from the Computer, which was utilizing the Target IP Address. The video and image files included multiple visual depictions of prepubescent children engaged in sexual acts with adults and other children, including the following representative sample:

| FILE NAME | DESCRIPTION |
|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [Video-1] | This video file is approximately 1 minute 16 seconds in length and depicts a prepubescent female engaged in sexually explicit activity. She is wearing a black sheer negligee and is naked from the waist down. The prepubescent female sits on a bed and spreads her legs apart, displaying her vagina to the camera. For the duration of the video, the female repositions herself in various ways, repeatedly displaying her vagina and anus to the camera. At approximately 30 seconds into the video, the prepubescent female begins to rub her vagina with her fingers. At approximately 1:08 into the video, the prepubescent inserts her finger into her anus. This video file was downloaded by law enforcement during a session lasting between 2:04 and 2:05 PM on December 7, 2022. |
| [Video-2] | This video is 4 minutes and 8 seconds in length and depicts a prepubescent female engaged in sexual activity with an adult male. The pre-pubescent female, who appears to be between 3-5 years of age, sits on the lap of a shirtless, bearded, tattooed adult male. The prepubescent female is wearing a light green and star-covered shorts and has a pacifier in her mouth. The adult male then spreads the young girl’s legs apart, pulls aside her shorts and exposes her vaginal area. At approximately 20 seconds into the video, the adult male rubs the female’s vagina. At approximately 2:48 into the video, the prepubescent female begins to rub her own vagina. The adult male continues to rub the female’s vagina until approximately the four minute mark, when he removes his fingers and holds them up to his nose. This video file was downloaded by law enforcement during a session that occurred on 12:49 PM on December 8, 2022. |
| [Image-1] | This image file depicts a naked pre-pubescent female kneeling in front of a partially clothed adult male. The adult male has a blue towel wrapped around his waist with his penis exposed. The prepubescent female is holding the adult male’s penis with her right hand, while looking up at the adult male. The young girl is |

| FILE NAME | DESCRIPTION |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | visible from her head to her chest area. The adult male is visible from his stomach to his knees. This video file was downloaded by law enforcement during a session lasting between 11:26 and 11:50 AM on December 9, 2022. |

6. The Target IP Address was assigned, at the approximate times of the Sessions, to an account registered to LAPEGNA's residence in Franklin, New Jersey (the "Residence").

7. Law enforcement obtained a search warrant for the Residence. On or about March 30, 2023, law enforcement executed the search warrant at the Residence. During the search of the Residence, law enforcement seized, among other things, a desktop computer (the "Desktop Computer") and several thumb drives.

8. At the time of the search, one other resident was present at the Residence. After waiving his Miranda rights, in a recorded statement, LAPEGNA stated, in sum and substance, that the other resident "had nothing to do" with what law enforcement was looking for. LAPEGNA also stated that only he used the Desktop Computer.

9. A forensic review of the Desktop Computer revealed that the Desktop Computer was running the same version of the P2P Program that law enforcement downloaded from during the Sessions. A preliminary review of the thumb drives—one of which was plugged into the Desktop Computer—revealed approximately 2 videos and 100 images that appeared to depict child pornography. This represents approximately 1% of the total files on the thumb drives.

10. Based upon my education, training and experience, and my discussions with other law enforcement officers, and to the best of my knowledge, the child pornography files described in Paragraph 5 above, traveled in interstate commerce and were produced using materials that were mailed and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, that is, the images were downloaded from and transmitted via the Internet.