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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA : Mag. No. 13-3592  
 :  
 v. : Hon. Mark Falk  
 :  
 JOHN ELLENBACHER : **CRIMINAL COMPLAINT**

I, David Fallon, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with the Department of Homeland Security, Homeland Security Investigations and that this Complaint is based on the following facts:

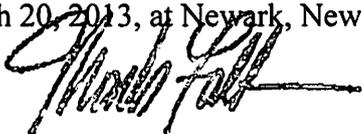
SEE ATTACHMENT B

continued on the attached page and made a part hereof.



David Fallon, Special Agent  
Department of Homeland Security,  
Homeland Security Investigations

Sworn to before me and subscribed in my presence,  
on March 20, 2013, at Newark, New Jersey



HONORABLE MARK FALK  
UNITED STATES MAGISTRATE JUDGE

## ATTACHMENT A

On or about August 15, 2012 and August 21, 2012, in Union County, in the District of New Jersey, and elsewhere, defendant

JOHN ELLENBACHER

did knowingly distribute child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that had been mailed, and using any means and facility of interstate and foreign commerce, 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) and 2252A(b)(1) and Title 18, United States Code, Section 2.

## ATTACHMENT B

I, David Fallon, am a Special Agent with the Department of Homeland Security, Homeland Security Investigations. I have knowledge of the following facts based upon both my investigation and discussions with other law enforcement personnel and others. Because this affidavit is being submitted for the sole purpose of establishing probable cause to support the issuance of a complaint, I have not included each and every fact known to the government concerning this matter. Where statements of others are set forth herein, these statements are related in substance and in part. 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 JOHN ELLENBACHER was a resident of Linden, New Jersey.

### **The Investigation**

2. On or about August 8, 2012, law enforcement officers in Knoxville, Tennessee executed a search warrant in connection with an investigation of child exploitation. In connection with the execution of that search warrant, law enforcement officers conducted a consent search of their target's computer and email account, and received consent to assume control of the account (the "Hotmail Account").

3. On August 15, 2012, the Hotmail Account received an email from a certain username and email account (the "Mail.com Account"), using a certain internet protocol ("IP") address. The email contained 30 images and 2 videos of child pornography. The email had the subject line "Re: really want something hot.," and stated: "sorry it's taken so long, I've had problems uploading my vids. Here are my first two sets for you, I hope you enjoy. DJ"

4. On August 20, 2012, law enforcement officers working in an undercover capacity in the Hotmail Account emailed the Mail.com Account, thanking the Mail.com Account user for the pictures and videos and requesting additional images and videos of child pornography.

5. On August 21, 2012, the Hotmail Account received three different emails from the Mail.com Account via the same IP address that was used on the August 15, 2012 email. Each August 21, 2012 email contained 30 images and 2 videos of child pornography.

6. Three of the sixty images attached to the August 21, 2012 emails are described in detail below:

File Name: 2-14.jpg Time Sent: 12:49am	This image appears to depict a prepubescent male child with brown hair naked from the waist down; he is wearing a green Notre Dame jersey and is stand/squatting over the head of another prepubescent male child with brown hair and a dark blue shirt. The naked child is lowering his penis toward the open mouth of child in the dark blue shirt. Behind the boys is a Pokémon sheet.
File Name: 4-12.jpg	This image appears to depict two prepubescent boys laying naked on bed

Time Sent: 12:58am	with a reddish brown comforter and a blue flowered pillow. One boy has his head on the other boy's stomach and is performing oral sex on him. The other boy has his left hand on the other boy's penis.
File Name: 5-12.jpg Time Sent: 1:10am	This image appears to depict a nude prepubescent boy laying naked on his stomach on a brown tiled comforter and a purple and pink pillow under his stomach. A naked adult male is kneeling behind the boy and the male's penis is in the boy's anus.

7. An administrative subpoena revealed that the IP address from which the Mail.com Account emails were sent to the Hotmail Account is registered to defendant ELLENBACHER at his Linden, New Jersey address (the "residence").

8. On March 20, 2013, law enforcement officers executed a search warrant at the residence and discovered computer equipment belonging to defendant ELLENBACHER, including two computers, a thumb drive and multiple DVDs. Among the files law enforcement found on the computer equipment belonging to defendant ELLENBACHER were multiple images of child pornography, as defined by Title 18, United States Code, Section 2256(8), including images involving prepubescent minors.

9. During and after the search of the residence, and after being advised of his Miranda rights, defendant ELLENBACHER admitted to law enforcement officers, among other things, in substance and in part, that: (1) he has a collection of child pornography; (2) he masturbates to images of child pornography; and (3) he is sexually aroused by preteen boys.

10. Defendant ELLENBACHER also acknowledged that (1) he was the sole user of the Mail.com Account, (2) he used the Mail.com Account and another email account to trade pornography with other individuals via the internet, and (3) the computer equipment described above, on which the images of child pornography were found, belong to him.

11. Based upon my education, training and experience, and my discussions with other law enforcement officers, and to the best of my knowledge, the images described in paragraph 6 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.