

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AO 91 (Rev. 08/09) Criminal Complaint

NOV 13 2013

UNITED STATES DISTRICT COURT

for the
District of New Mexico

MATTHEW J. DYKMAN
CLERK

United States of America)

v.)

Nelson BEGAY ,
Year of Birth: 1981
SSN: xxx-xx-5312)

Defendant(s)

Case No.

13mj 3551

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 03/01/2013 to 11/07/2013 in the county of Bernalillo in the
Judicial District of New Mexico, the defendant(s) violated:

Code Section

Offense Description

Title 18, USC, Section 2252(a)(2)
and 2252(a)(4)(b)

Receipt and Possession of Visual Depictions of Minors Engaged in Sexually
Explicit Conduct

This criminal complaint is based on these facts:

During a period on or about between 03/01/2013 to 11/07/2013, in the district of New Mexico, Nelson BEGAY recieved and possessed visual depictions of minors engaged in sexually explicit conduct in violation of Title 18, United States Code, Sections 2252(a)(2) and 2252(a)(4)(b).

Continued on the attached sheet.



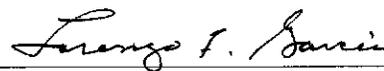
Complainant's signature

Eric C. Bonza, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: NOV 13 2013



Judge's signature

City and state: Albuquerque, New Mexico

Lorenzo F. Garcia, United States Magistrate Judge

Printed name and title

ATTACHMENT A

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Eric Bonza, being duly sworn, hereby declare and state as follows:

Your Affiant is a Special Agent with the Department of Homeland Security, Homeland Security Investigations, hereafter referred to as HSI, and has been employed by HSI as such since December 2010. Your Affiant is currently assigned to the Assistant Special Agent in Charge, Albuquerque, NM where your Affiant is assigned to investigate individuals involved in the exploitation of minors including violations of Title 18, United States Code, Section 2252. Your Affiant has worked many child pornography and child exploitation investigations and has been trained in the investigation of computer related child exploitation and child pornography cases by the Department of Homeland Security and the Internet Crimes Against Children Task Force. Your Affiant has successfully completed the Internet Crimes Against Children Undercover Chat Investigations and Peer to Peer Investigation courses. Your Affiant has been invited to speak at multiple law enforcement conferences on the subject of child exploitation, including the 2013 Crimes Against Children Conference in Dallas, Texas. During the investigation of these child exploitation related cases, your Affiant has executed, or participated in the execution of numerous search warrants and seized evidence of these violations.

Your Affiant successfully completed eleven weeks of Criminal Investigator Training at the Federal Law Enforcement Training Center (FLETC) and received the Academic Honors Award for this program. In addition, your Affiant completed eleven weeks of Special Agent Training with Immigration and Customs Enforcement, also at FLETC. Your Affiant holds a Bachelor's Degree in History and Secondary Education from the University of Michigan, and a Master's of Science Degree in Intelligence Analysis from the University of Detroit Mercy.

The following information relating to the investigation of Nelson BEGAY (YOB: 1981, SSN: xxx-xx-5312) is personally known to me based on my own investigation, training and experience, including my review of investigative reports, or has been related to me by other individuals, including law enforcement officers involved in the investigation whom your Affiant believes to be reliable. Based on the following information, there is probable cause to believe that BEGAY received and possessed visual depictions of minors engaged in sexually explicit conduct (hereafter "child pornography") in violation of Title 18, United States Code, Sections 2252 (a)(2) and 2252(a)(4)(B).

Applicable Statutes

According to 18 U.S.C. Section 2252(a)(2), it is a federal crime for a person to "knowingly receive...any visual depiction [of a minor engaged in sexually explicit conduct] using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce,

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or which contains materials which have been mailed or so shipped or transported, by any means including by computer....”

According to 18 U.S.C. Section 2252(a)(4)(B), it is a federal crime for a person to “knowingly possesses, or knowingly accesses with intent to view...[any] matter which contain any visual depiction [of minors engaged in sexually explicit conduct] that has been mailed, or 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 materials which have been mailed or so shipped or transported by any means including by computer....”

Summary of Investigation

According New Mexico Attorney General’s Office Special Agent Owen Pena, on Thursday, September 12, 2013, he was conducting investigations into the sharing of “Child Pornography ” files on the ARES P2P file sharing network. At this time, he identified a computer with the IP address **68.54.14.82 (Port: 4980)** as a potential download candidate (source) for at least 19 file(s) of investigative interest. He directed his investigation to this computer at IP address **68.54.14.82** as it had recently been detected as associated with investigative files of interest by investigator(s) conducting keyword searches or hash value searches for files related to child abuse material including child pornography on the ARES network.

According to Pena, during the investigation the ARES client P2P program on the computer with the IP address **68.54.14.82**, reported its version as **2.2.4.3048**. This client program also reported its ARES nickname as: **anon_44360e52@Ares**.

According to Pena, on September 12, 2013 a query on the IP address **68.54.14.82** was conducted through the American Registry for Internet Numbers (ARIN). I received information that the IP address **68.54.14.82** is registered to Comcast Cable Communications, Inc.

According to Special Agent Pena, on September 12, 2013, between 1149 hours and 1315 hours MST, he successfully completed the single-source download of the following 2 file(s) that the computer at IP address **68.54.14.82** was making available

Special Agent Pena was able to complete a direct download of a file with the SHA-1 value of, “6WN2...”, named, “**pthc girl is suck for chiguagua110.avi**”. Special Agent Pena looked at this file and noted it does contain graphic images depicting minors engaged in sexually explicit conduct. Your Affiant also viewed the file and confirmed the following description.

- This color video or movie is 17 minutes and 52 seconds in length. The words “**alexis_is_aSexy_beast**” is imprinted on the upper left corner of the video. This video depicts a pre-pubescent female, whom your Affiant believes to be between 11 and 13 years old, on what appears to be a web camera. The pre-pubescent female appears to be wearing a long sleeved button t-shirt and has a towel spread

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out over her lap as she is typing and is sitting on a brown leather couch. At 1:09 the young girl produces what appears to be a can of cheese spread and a small dog that appears to be a Chihuahua. At 2:45 the young girl removes the towel and at 3:04 she pulls her panties down to her ankles exposing her vaginal area. At 5:08 the young girl applies cheese to her right forefinger and spreads it on and around her vaginal area and allows the dog to lick the cheese off her vaginal area. This activity continues until 17:00 during which the focal point of the video is the pre-pubescent female's vaginal area.

Special Agent Pena was able to complete a direct download of a file with the SHA-1 value of, "SOOX...", named, "**!bob! web new 2010 web very hot part 2.avi**". Special Agent Pena looked at the file and noted it does contain graphic images depicting minors engaged in sexually explicit conduct. Your Affiant also viewed the file and confirmed the following description.

- This color video or movie file is 43 minutes and 16 seconds in length. This web-cam style video depicts a pre-pubescent female, whom your Affiant believes to be between 11 and 13 years old, seated on what appears to be a bed. The pre-pubescent female is seen kneeling on the bed and removing her jeans shorts and her underwear. The young girl's vaginal area becomes the focal point of the video and she uses various foreign objects to penetrate herself in the vagina and anus. At around the 7 minute mark, the young girl removes her zippered sweatshirt and displays her breasts as she continues to penetrate herself with foreign objects. At 35:35 the pre-pubescent female leaves the view of the camera and return at 37:30 fully clothed. At 39:40, the pre-pubescent female uncovers her breasts, making her breasts the focal point of the video, and begins to fondle them.

According to Special Agent Pena, on Tuesday, October 15, 2013 at or about 1350 hrs, he obtained a State of New Mexico Grand Jury Subpoena Duces Tecum for Comcast Cable and for IP address **68.54.14.82**; with the assistance of Assistant Attorney General Shannon Murdock. He then faxed the Grand Jury Subpoena Duces Tecum to Comcast Cable.

According to Special Agent Owen Pena, on Monday, October 21, 2013, he received sought after information from Comcast Cable. Comcast Cable responded back with the subscriber information for IP Address **68.54.14.82** and which showed the subscriber information as follows:

Subscriber Name: Nelson Begay
Service Address: 11408 Faye Ave NE, Albuquerque, NM, 87112
Telephone #: 505-554-3845
Start of Service: 01/10/2011
E-mail User IDs: nelson5580 (end in @comcast.net)
MAC Address: 00:15:d1:83:b2:a1
IP Address History: **68.54.14.82**, 04/20/2013 to 10/17/2013
Account Status: Active

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On October 31, 2013, Affiant conducted a law enforcement record check, including CLEAR on 11408 Faye Ave NE, Albuquerque, NM, 87112, and confirmed that Nelson BEGAY is in fact currently associated with this address.

On Monday, November 04, 2013, Affiant conducted surveillance at 11408 Faye Ave NE, Albuquerque, NM, 87112, locating the residence and confirming its location.

On November 6, 2013, a federal search warrant was obtained for the property and premises located at 11408 Faye Ave. NE, Albuquerque, NM 87112 to search for evidence and instrumentalities of violations of 18 U.S.C. Sections 2252, that being distribution, receipt, and possession of visual depictions of minors engaged in sexually explicit conduct.

On November 7, 2013, HSI, with the assistance of other Internet Crimes Against Children Task Force agencies, served a federal search warrant at the property and premises located at 11408 Faye Ave. NE, Albuquerque, NM 87112. Numerous items of computer media were seized throughout the residence. In the residence, a Dell Inspiron 1764 Laptop Serial Number 9N06KL1 computer was located in a bedroom, identified as occupied by Nelson BEGAY (Year of Birth: 1981, SSN: xxx-xx-5312).

On November 07, 2013, your Affiant and Special Agent Justin Allen with HSI interviewed Nelson BEGAY at his residence, located at 11408 Faye Ave. NE, Albuquerque, NM 87112. Interviewing Agents told BEGAY that he was not under arrest and that he was free to leave at any time. BEGAY was also read his rights per Miranda and willingly signed a waiver of those rights. In this recorded interview BEGAY relayed the following information: BEGAY stated he lived in the residence with two of his sisters, Loria Murphy and Lorina Begay, along with his juvenile niece. BEGAY said he established his computer network through Comcast Communications and that he set up the wireless router that was in his house and that the network was secured. BEGAY stated that he is the only one that has access to the Dell Inspiron 1764 Laptop Serial Number 9N06KL1 laptop located in his bedroom. BEGAY stated that he has downloaded child pornography through the Peer-to-Peer (P2P) sharing system called ARES. BEGAY defined child pornography as minors engaged in sexually explicit actions. BEGAY stated that he has downloaded numerous child pornography files through this system and has saved his child pornography files to his laptop and would then either move the images to a folder on the computer which he had named "bait", or he would delete the images from his computer by moving them to the recycle bin and then emptying the bin. BEGAY stated that when he saved the child pornography, he would change the original file name. The Dell Inspiron 1764 Laptop Serial Number 9N06KL1 laptop was in his possession and was recovered during the execution of the search warrant in the room identified as Nelson BEGAY's bedroom. BEGAY stated that he primarily used the laptop located in his room to access the internet and that no other residents in the house accessed his laptop. BEGAY stated that he has other forms of media storage but was unsure if there was child pornography saved on any other device. BEGAY said that he had downloaded the P2P sharing system called ARES to the specified Dell Inspiron 1764 Laptop Serial Number 9N06KL1 laptop and one other

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desktop computer located in the house. BEGAY stated that he used the search terms "pthc" and "lsm" to find child pornography to download using ARES. BEGAY stated that he had begun downloading child pornography while he was in the military, deployed in Korea, approximately June 2005 to June 2006. BEGAY was shown two separate screenshots of the two videos which were downloaded by SA Pena from the computer associated with I.P. address **68.54.14.82**, depicting images of child pornography. BEGAY acknowledged that he had viewed both videos on his laptop computer and signed and dated each, acknowledging this fact. BEGAY was also shown a list of filenames that the Internet Protocol Address assigned to his residence had been seen with as available for sharing over the past several months. BEGAY read through the list and initialed many of the files acknowledging that he had requested the files for download and viewed them. He also acknowledged that the files were consistent with child pornography and stated that each contained what he believed to be minors engaged in sexually explicit conduct. BEGAY stated that he had masturbated and ejaculated to the images of child pornography. BEGAY stated that he had attempted to stop viewing child pornography multiple times, but was not successful.

On November 08 2013, Special Agent and Forensic Examiner Robert E. Nelson recovered over 30 images which he believed to be visual depictions of minors engaged in sexually explicit conduct to include the following videos that were recovered from a Dell Inspiron 1764 Laptop Serial Number 9N06KL1 found in the room identified as Nelson BEGAY's bedroom.

Your Affiant provides the following descriptions of the videos recovered from the seized media based upon your Affiant's review of the evidence.

Videos Recovered from Dell Inspiron 1764 Laptop Serial Number 9N06KL1 Laptop found in Nelson BEGAY's Bedroom.

File Name: **Compilation 03.avi**

File Path: C:\Users\Begay Family\AppData\Roaming\New folder\Bait\Vid\Compilation 03.avi

Creation Date: 11/01/12 09:47:28 PM

Description: This video is 29 minutes, 24 seconds long and begins with a nude prepubescent female, approximately 7 to 9 years of age, dancing on a bed. The video, which is a compilation of many video clips, then cuts to an adult male inserting his penis into the vagina of a prepubescent female, whose face is not visible. The next clip depicts a prepubescent female lying on top of an adult male with the adult male's penis inserted into the prepubescent female's vagina. The next clip depicts what appears to be a prepubescent female performing oral sex on an adult male. The next clip depicts a prepubescent female, approximately 5 to 7 years of age, sitting on a tricycle with her vagina and anus exposed. The camera zooms in to focus on the vagina and anus of the female. The female then inserts her finger into her vagina. The next clip depicts an adult

penis entering and ejaculating on the vagina of what appears to be a prepubescent female. The next clip also depicts an adult penis entering and ejaculating on the vagina of what appears to be a prepubescent female. The next clip depicts multiple prepubescent females, approximately 8 to 12 years of age, nude at the beach. The next clip depicts an adult male having sex with a prepubescent female on a bed. The next clip depicts a group of females, some of which are prepubescent, performing what looks to be aerobic exercises. The next clip depicts an adult penis entering and ejaculating on the vagina of what appears to be a prepubescent female. The video then continues with a compilation of clips that include video clips of prepubescent females performing various sexual acts.

File Name: **Compilation.wmv**

File Path: C:\Users\Begay Family\AppData\Roaming\New folder\Bait\Vid\Compilation.wmv

Creation Date: 11/05/12 09:44:16 AM

Description: This video is 15 minutes, 40 seconds long and begins with a still image of a prepubescent female, approximately 8 to 11 years of age, lying on her stomach with her vagina exposed. The video is a compilation of many video clips, which continues to a video depicting a prepubescent female lying on her hands and knees on a bed, while an adult male appears to insert his penis into her vagina. This continues from approximately 0:15 to 2:22. The adult male then turns the prepubescent female, who is wearing a mask and appears to be approximately 6 to 8 years of age, and inserts his penis into her vagina and has sex with the female until approximately 3:37 of the video. The video then continues with compilation of clips that include of both still images of nude prepubescent females and video clips of prepubescent females performing various sexual acts.

File Name: **pthe ann finally cock in pussy but cum in the air.avi**

File Path: C:\Users\Begay Family\AppData\Roaming\New folder\Bait\Vid\pthe ann finally cock in pussy but cum in the air.avi

Creation Date: 09/17/13 05:27:49 PM

Description: This video is 26 minutes, 16 seconds long and begins with the 20th Century Fox movie Introduction. At approximately 0:25 the video cuts to a prepubescent female, approximately 8 to 12 years of age, fully clothed, sitting on a couch. An adult male then walks up to the female and, while standing next to the female, removes his penis from his pants and begins masturbating. At approximately 5:55 the video cuts to the prepubescent female lying down on the couch. The adult male then removes the pants and underwear of the prepubescent female. The adult male then continues to masturbate over the female and then moves the camera to focus on the prepubescent females exposed vagina and anus. The adult male then touches and inserts his finger into the female's vagina. The man then continues to masturbate and touch the female's vagina. At 12:12 the adult male begins attempting to insert his penis into the female's vagina but is only able to insert the



tip of his penis into her vagina. The adult male then continues touching and placing his finger inside of the female's vagina. At approximately 19:20 the female begins putting her clothes back on, while the adult male masturbates. The adult male continues to masturbate to ejaculation at 26:00.

File Name: **Compilation 02.wmv**

File Path: C:\Users\Begay Family\AppData\Roaming\New folder\Bait\Vid\Compilation 02.wmv

Creation Date: 11/01/12 09:58:04 PM

Description: This compilation video is 15 minutes, 23 seconds long and begins with a clip of an adult male inserting his penis into what appears to be a prepubescent female. The video continues with a series of clips of what appear to be prepubescent females in sexual situations. This includes a clip, beginning at approximately 4:00 with a prepubescent female, who appears approximately 4 to 6 years of age, lying nude on a bed with her legs spread exposing her vagina. An adult male then enters the screen and begins licking the prepubescent female's vagina until approximately 4:10. The next clips depicts a prepubescent female, approximately 3 to 5 years of age, lying on a bed without a shirt on. An adult male is bent over the female, ejaculating in the female's mouth while holding the female's head down as she attempts to move. This clip last approximately 4 seconds. The next clip is titled "6 year old Inga – masturbates" and shows a prepubescent female, approximately 5 to 7 years of age, wearing a red sweater with her vagina exposed, while she inserts her own finger into her vagina. The video then continues with a compilation of clips that include video clips of prepubescent females performing various sexual acts.

File Name: **Compilation - Janesa, Alina, Alegre, Vicky.mpg**

File Path: C:\Users\Begay Family\AppData\Roaming\New folder\Bait\Vid\Compilation - Janesa, Alina, Alegre, Vicky.mpg

Creation Date: 04/27/13 10:38:11 AM

Description: This compilation video is 10 minutes, 41 seconds long and begins with a prepubescent female, approximately 3 to 5 years of age, performing oral sex on an adult male. This clip continues until approximately 1:25. The video then cuts to a clip of a prepubescent female, approximately 4 to 6 years of age, with an adult male masturbating himself over the female's mouth until ejaculation. At 4:37 the video cuts to a clip of a blindfolded prepubescent female, approximately 5 to 7 years of age. An adult male is placing his penis next to the female's mouth, while the female touches her own vagina. The video then cuts to the same female lying on the bed, with the blindfold around her neck, while the adult male places his penis into her mouth and rubs her chest. The next clip begins at 6:03 and shows a prepubescent female performing oral sex on an adult male. The next clip begins at approximately 6:19 and depicts a prepubescent female,

approximately 8 to 10 years of age, lying on a bed with no shirt on, masturbating and performing oral sex on an adult male's penis. The adult male then ejaculates into the mouth of the prepubescent female. The last clip depicts a prepubescent female, approximately 5 to 7 years old, with no shirt on masturbating an adult male until he ejaculates on her chest.

Interstate Nexus

To operate a P2P file sharing program like ARES a user must access the internet. Use of the Internet constitutes "in or affecting interstate commerce" for the purposes of receipt and possession of visual depictions of minors engaged in sexually explicit conduct in violation of 18 USC Sections 2252 (a)(2) and 2252 (a)(4)(B). See *United States v. Swenson*, 335 Fed. Appx. 751 (10th Cir. 2009).

Finally, the Western Digital 500 gigabyte hard drive Serial Number WXA0AC935138 located within BEGAY's Dell Inspiron 1764 Laptop Serial Number 9N06KL1 Laptop was produced in the country of Thailand. Thus, your Affiant believes that because the images were produced using materials which had been mailed, shipped or transported in interstate and foreign commerce, therefore interstate nexus is satisfied for possession of visual depictions of minors engaged in sexually explicit conduct in violation of 18 USC Section 2252 (a)(4)(B).

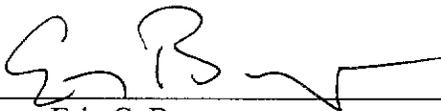
Conclusion

Based upon the foregoing information contained in this affidavit, your Affiant has probable cause to believe that during a period ranging from approximately March 1, 2013 to November 07, 2013, Nelson BEGAY received and possessed visual depictions of minors, to include prepubescent children, engaged in sexually explicit conduct in violation of Title 18, United States Code, Section 2252(a)(2) and 2252 (a)(4)(B). Therefore your Affiant respectfully request this court issue a criminal complaint and arrest warrant in this matter.

Prosecution of BEGAY was approved by Assistant United States Attorney Carson-McNabb.

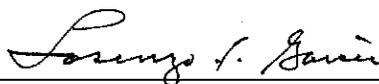
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NOT.



Eric C. Bonza
Special Agent
Department of Homeland Security
Homeland Security Investigations

Subscribed and sworn before me this 13 day of November 2013 at ^{1:30 pm} ~~13~~ hours.



Honorable Lorenzo F. Garcia
United States Magistrate Judge

