

ORIGINAL

13 MAG 1771

Approved:



PATRICK EGAN
Assistant United States Attorney

Before: HONORABLE JAMES L. COTT
United States Magistrate Judge
Southern District of New York

----- x

UNITED STATES OF AMERICA : COMPLAINT

- v. -

CHARLES FAMILLETTI,
Defendant.

: Violations of
18 U.S.C. §§
: 2252A(a) (1), (2) (B) and
5 (B); 1591(a) (1) and
: (b) (1); and 1594 (a)

COUNTY OF OFFENSE:
New York

----- x

SOUTHERN DISTRICT OF NEW YORK, ss.:

THOMAS THOMPSON, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

(Transportation and Distribution of Child Pornography)

1. On or about July 3, 2013, in the Southern District of New York and elsewhere, CHARLES FAMILLETTI, the defendant, knowingly did mail, and transport and ship using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, child pornography; and did receive and distribute materials that contained child pornography that had been mailed, and using a means and facility of interstate and foreign commerce shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, FAMILLETTI transported and distributed files containing child pornography from a computer in New York, New York, over the Internet via a file sharing program.

(Title 18, United States Code, Sections 2252A(a) (1) and (a) (2) (B).)

COUNT TWO

(Possession of Child Pornography)

2. At least on or about July 3, 2013, in the Southern District of New York and elsewhere, CHARLES FAMILIETTI, the defendant, knowingly did possess and access with intent to view a book, magazine, periodical, film, videotape, computer disk, and other material that contained an image of child pornography that had been mailed, shipped and transported in interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, FAMILIETTI possessed videos and images of child pornography at a location in New York, New York.

(Title 18, United States Code, Section 2252A(a)(5)(B).)

COUNT THREE

(Attempted Sex Trafficking)

3. From in or about June 2013, up to and including on or about July 15, 2013, in the Southern District of New York and elsewhere, CHARLES FAMILIETTI, the defendant, knowingly, in and affecting interstate commerce, did attempt to recruit, entice, harbor, transport, provide, obtain and maintain, by any means a person, knowing and in reckless disregard of the fact that the person had not attained the age of 14 years and would be caused to engage in a commercial sex act, to wit, FAMILIETTI agreed to pay an FBI agent working in an undercover capacity \$500 to provide to FAMILIETTI an 11 year old boy with whom FAMILIETTI could engage in commercial sex acts, met with the undercover agent, and provided the undercover agent with a \$100 down payment.

(Title 18, United States Code, Sections 1591(a)(1) and (b)(1),
and 1594(a).)

The bases for my knowledge, and for the foregoing charges, are as follows:

4. I have been a Special Agent with the FBI since 2004. Beginning in 2007, I was assigned to the Crimes Against Children Squad, investigating violations of criminal law relating to the

sexual exploitation of minors. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement agents and witnesses, and my examination of reports and records. Because this affidavit is submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

5. Based on my personal participation in the investigation of this matter, I have learned the following:

a. On or about June 8, 2013, operating in an undercover capacity, using an Internet-connected computer, I signed on to a publicly available peer-to-peer ("P2P") file-sharing program. From my training and experience I have learned that P2P file sharing is a method of communication available to Internet users whereby various computers form a network and use specifically designed software programs to access the network. P2P software programs are designed to allow users to trade digital files through a worldwide network that is formed by linking computers together. It also allows users signed in to the network to send messages directly to each other.

b. During the session, I used a network monitoring program to identify the Internet Protocol address ("IP address") of users with whom I was interacting.¹

¹Based on my training and experience, I have learned that every computer or device on the Internet is referenced by a unique IP Address the same way every telephone has a unique telephone number. An IP Address is a series of four numbers separated by a period, and each number is a whole number between 0 and 254. An example is 192.168.10.102. Each time an individual accesses the Internet, the computer from which that individual initiates access is assigned an IP Address. A central authority provides each Internet Service Provider ("ISP") a limited block of IP Addresses for use by that ISP's customers or subscribers. The IP address can be used to locate the physical location of the computer or network that is assigned that IP address.

c. During that session on June 8, 2013, I exchanged several messages with an individual identified on the network as "Brbkbtm." As part of that exchange, "Brbkbtm" wrote "I would love to be with a boy." When I indicated that it was possible but it would cost money, "Brbkbtm" responded, "I would pay anything" and wrote "I would love to suck and rim a boy." I asked what age he would prefer, and "Brbkbtm" wrote "10-16."

d. On or about July 3, 2013, again operating in an undercover capacity, I logged into the same P2P file-sharing program. I saw that "Brbkbtm" was also logged in and we exchanged messages. During that exchange, "Brbkbtm" confirmed that he was still interested in obtaining a young boy for purposes of engaging in sex acts. I said that I had access to an 11-year old boy that a friend helped watch. I said that my friend wanted \$600 for the boy but that I would try to get him to accept \$500 and "Brbkbtm" responded, "ok." "Brbkbtm" then said that we should meet to finalize the arrangements. I told him that if we were bringing the boy to his place, we would give the boy alcohol and sleeping pills to be safe.

e. I then used the P2P file-sharing program to browse through the files that "Brbkbtm" had selected from his computer, or devices attached to his computer, to be shared on the P2P file-sharing program. Several had file names indicative of child pornography. I downloaded four files from "Brbkbtm." A review of these files revealed that all four appeared to be child pornography. Three of these files are described as follows:

i. "4yo Thaiboy takes more and more inches up tight fuckhole.mpeg" - Video depicts an adult male engaging in anal sex with a prepubescent boy, who appears to approximately four years old. The male is also touching the boy's penis.

ii. "[dad5yo] dad5son2(15.26)mpeg4.mp4" - Video depicts a nude adult male and a nude prepubescent boy, who appears to be approximately five years old. The boy's hand touches the adult male's penis.

iii. "8yo Boy Fingered and Cummed (2).WMV.downloading" - Video depicts a close-up on the anus and

genitals of a prepubescent boy, who appears to be approximately eight years old. An adult male enters on the video and touches the boys buttocks.

6. Using the network monitoring program described above, I identified the IP address associated with the computer that "Brbkbtm" was using while logged on to the P2P file-sharing program on July 3, 2013, as 207.237.219.2.

7. Records obtained for the subscriber and account information for that IP address indicated that it was registered to RCN Telecom, an Internet Service Provider.

8. Records obtained from RCN Telecom by administrative subpoena showed that this IP address was subscribed to Wichert Corporate Housing, with a service address of 235 West 56th Street, Apartment 35E, New York, New York 10019.

9. Records obtained from Weichert Corporate Housing revealed that that unit is currently subleased to CHARLES FAMILIETTI, the defendant, and that he is the sole listed occupant.

10. I have spoken with an FBI agent working in an undercover capacity ("UC-1") who is involved in the investigation of this matter and through that conversation I have learned the following:

a. On or about July 15, 2013, pursuant to the arrangements made during communications over the P2P program, including a communication on or about July 12, 2013 from FAMILIETTI while he was in San Francisco, California, UC-1 met with FAMILIETTI at a coffee shop on 55th Street and Broadway. During that meeting, FAMILIETTI confirmed that he wanted meet the 11-year old boy and "rim him" and perform oral sex on him. UC-1 said that his friend wanted \$100 up front and then would bring the boy to FAMILIETTI'S apartment located at 235 West 56th Street, Apartment 35E, New York, New York. At that point, UC-1 accompanied FAMILIETTI to an automated teller machine, where FAMILIETTI withdrew money and gave \$100 to UC-1.

b. Approximately one hour later UC-1 arrived at 235 West 56th Street. The staff at the building called up to the apartment and then let UC-1 up to the apartment. When FAMILIETTI opened the door of apartment 35E for UC-1, other law enforcement agents entered the apartment.

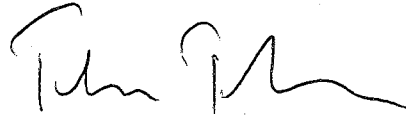
c. During an interview with the defendant after he was advised of his *Miranda* rights and agreed to waive them, the defendant confirmed to law enforcement agents the following information:

i. That he is "Brbkbtm" on the above-described P2P network and that he uses that account to trade images of child pornography.

ii. That he intended to pay a total of \$500 to UC-1 to "lick [the boy's] ass" and "suck him."

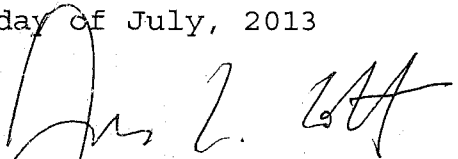
d. During the execution of a search warrant that had previously been obtained for FAMILIETTI's apartment, FAMILIETTI also directed law enforcement agents to a memory card hidden in a loaf of bread in the refrigerator. A preview of the contents of that card by law enforcement agents revealed that it had hundreds of files containing images and videos depicting what appears to be child pornography.

WHEREFORE, deponent prays that the defendant be imprisoned,
or bailed, as the case may be.



THOMAS THOMPSON
Special Agent
Federal Bureau of Investigation

Sworn to before me this
15th day of July, 2013



HON. JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK