

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

* CRIMINAL NO. 18-103

v.

* SECTION: "M"

NICHOLAS GARCIA

*

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* * *

FACTUAL BASIS

Should this matter proceed to trial, both the Government and the defendant, **NICHOLAS GARCIA** ("GARCIA"), do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crime to which the defendant is pleading guilty and that the Government would prove the following beyond a reasonable doubt at trial.

The case against **GARCIA** developed as a result of four Cyber Tip reports from the National Center for Missing and Exploited Children ("NCMEC"). The NCMEC reports detailed a Google user "nicholas garcia" with an email address nicholasgarcia346@gmail.com as having uploaded multiple images and videos of child pornography.

On February 21, 2018, law enforcement officials with the Louisiana Bureau of Investigation ("LBI") sought and obtained a search warrant for **GARCIA's** Houma, LA address. On February 22, 2018, special agents with LBI along with special agents with the U.S. Department of Homeland Security, Homeland Security Investigations ("HSI") and the Terrebonne Parish Sheriff's Office executed the warrant at the Houma address. During the

execution of the search warrant, agents located and identified **GARCIA**. Agents recovered a Kyocera cellular phone, an Apple iPod, a Roku device, two Acer laptop computers, and a Samsung laptop computer.

Agents advised **GARCIA** of his *Miranda* rights and, after waiving his rights, he confessed to viewing child pornography daily. **GARCIA** said he encountered child pornography in chat rooms and that other chat room users sent him child pornography. **GARCIA** admitted to being a habitual viewer of child pornography. **GARCIA** said he downloaded the instant messenger application Kik so he could locate child pornography. **GARCIA** said he would also go to local businesses that had a public internet connection to download child pornography.

According to **GARCIA**, he also had a Samsung Galaxy tablet containing child pornography located at his grandmother's home located in Houma, LA. Agents traveled from Garcia's residence to his grandmother's home. Agents subsequently located **GARCIA**'s Samsung tablet from a book sack containing his possessions found in a bedroom closet. **GARCIA** told the agents that the book bag and tablet were his property. **GARCIA** gave the agents written consent to search, retrieve, and conduct a computer forensic search of the Samsung tablet.

Special agents with LBI and HSI conducted a preview of **GARCIA**'s electronic media and located known images and videos depicting the sexual victimization of children on **GARCIA**'s device. **GARCIA**'s computers and other electronic devices were seized and taken to HSI's computer forensic laboratory at HSI's New Orleans office. On March 8, 2018, HSI sought and obtained a federal search warrant for all of **GARCIA**'s seized electronic devices and related media.

During a subsequent search, HSI computer forensic examiners located approximately 350

images and 3 different videos depicting the sexual victimization of children on the defendant's Galaxy tablet that was identified by him and located at his grandmother's residence. Specifically, these images and videos depict pre-pubescent girls engaged in sexual acts with adults including acts of violence involving children.

The Government would present evidence to establish that the images and videos of child pornography were distributed in interstate commerce and using computer equipment that had been transported in interstate and foreign commerce. The Government would establish through testimonial and documentary evidence that the computers used by **GARCIA** to download and possess the child pornography were all manufactured outside of the State of Louisiana and were transported in interstate or foreign commerce. Specifically, the Government would present evidence to prove that the defendant's Samsung Galaxy tablet was manufactured in Vietnam.

Various records and testimonial evidence, including testimony from representatives of HSI, LBI, the Terrebonne Parish Sheriff's Office, and other witnesses would also be called to prove the facts set forth above.


LIMITED NATURE OF FACTUAL BASIS

This Factual Basis is not intended to constitute a complete statement of all facts known by the Government and the defendant, but rather is a minimum statement of facts intended to prove the necessary factual predicate for defendant's guilty plea. The limited purpose of this Factual Basis is to demonstrate that there exists sufficient legal basis for defendant's plea of guilty to the charged offense.



NICHOLAS GARCIA
Defendant

11-15-18
DATE



GARY SCHWABE
Counsel for Defendant

11-15-18
DATE



BRIAN M. KLEBBA
Assistant United States Attorney

11/15/18
DATE