

UNITED STATES DISTRICT COURT

for the

Middle District of Florida

United States of America

v.

JORGE GUERRERO-TORRES

Case No. 2:16 MJ 1055 - mrm

Defendant(s)

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 May 29, 2016 in the counties of Lee and Orange in the
Middle District of Florida, the defendant(s) violated:

Code Section

18 U.S.C. §2252A(a)(5)(B)

Offense Description

Possession of Child Pornography

This criminal complaint is based on these facts:

See attached Affidavit.

Continued on the attached sheet.



Complainant's signature

Jody Payne, FBI Task Force Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: June 5, 2016



Judge's signature

City and state: Fort Myers, Florida

Magistrate Judge Mac R. McCoy

Printed name and title

AFFIDAVIT

I, Jody Payne, having been first duly sworn, do hereby depose and state as follows:

1. I am a Certified Law Enforcement Officer in the State of Florida and currently hold the position of Sergeant with the Lee County Sheriff's Office. I have been a member of the Lee County Sheriff's Office since 1988. I have been assigned to the Child Exploitation Task Force since 2004, members of which investigate the online sexual exploitation of children. I have participated in numerous investigations of persons suspected of violating federal child pornography laws, including 18 U.S.C. §§ 2252 and 2252A. On May 20, 2015, I was appointed and sworn to perform the duties of the Office of Special Deputy United States Marshal. As a Task Force Agent, I am authorized to investigate violations of the laws of the United States and execute arrest and search warrants issued under the authority of the United States.

2. This affidavit is being submitted in support of an application for a criminal complaint against JORGE GUERRERO-TORRES (hereinafter "GUERRERO TORRES") for a violation of 18 U.S.C. §§ 2252A(a)(5)(B) and (b)(2)(prohibiting a person from knowingly possessing child pornography). Your affiant submits that there is probable cause to believe GUERRERO TORRES was in possession of child pornography.

3. As this affidavit is being submitted for the limited purpose of establishing probable cause, your affiant has not included all facts known to your affiant concerning this investigation.

INVESTIGATION

4. On May 29, 2016, at approximately 7:34 a.m., the Lee County Sheriff's Office (LCSO) received a 911 call regarding a missing person report from U.J. U.J. reported that he and his girlfriend, R.H., had woken up a short time before and found that R.H.'s nine-year-old minor child was missing from their residence in Fort Myers, Florida.

5. During the investigation, it was learned that U.J. and R.H. had recently allowed family friends, JORGE GUERRERO-TORRES (hereinafter "GUERRERO-TORRES") and his brother, to live at their residence for several months. Both GUERRERO-TORRES and his brother had recently moved out.

6. Due to information obtained in the investigation, GUERRERO-TORRES and his brother were contacted and both provided statements to law enforcement regarding their whereabouts on the day of the minor child's disappearance. GUERRERO-TORRES confirmed his cellular telephone number to be 305-785-0205 and that he currently resided with two roommates at a specified residence in Orlando, Florida. As a result, investigators obtained a search warrant for the recovery of records related to 305-785-0205, including historical geographical tracking data.

7. Further analysis of the records associated with 305-785-0205 confirmed that the cellular telephone utilized by GUERRERO-TORRES left his residence in Orlando on May 28, 2016 in the evening hours and continued to head south into the Fort Myers area. Records indicated that GUERRERO-TORRES' cellular telephone was in the area of the residence of U.J. and R.H. in Fort Myers, Florida between 12:00 a.m. and 3:00 a.m., on May 29, 2016 (the date of and approximate time of the minor child's

disappearance). After leaving Fort Myers that early morning on May 29, 2016, records confirmed that the cellular telephone headed toward Okeechobee, Florida, continuing toward Yee-Haw Junction where the cellular telephone remained stationary for several hours before heading back to Okeechobee and finally departing to the cellular telephone's place of origin in Orlando.

8. Finally, records confirmed that at the time GUERRERO-TORRES' cellular telephone was in the area of U.J. and R.H., there was communication between the cellular phone used by the household residents, including the minor child, and the cellular telephone (305-785-0205) admittedly utilized by GUERRERO-TORRES. It appeared the content of the message was deleted from the cellular telephone. The minor child has not been seen since the communication between the cellular phones which took place on May 28, 2016.

9. On or about June 3, 2016, after an extensive search spanning several different jurisdictions, GUERRERO-TORRES was located in Okeechobee, Florida. GUERRERO-TORRES was taken into custody as a result of his lack of lawful immigration status in the United States. GUERRERO-TORRES is currently detained pursuant to an immigration detainer. At the time of his detention, GUERRERO-TORRES was not in possession of the cellular telephone that was assigned cellular phone number 305-785-0205.

10. On or about June 3, 2016, GUERRERO-TORRES was provided his *Miranda* warnings at which point he waived his right to counsel and agreed to answer questions. The following is a synopsis of GUERRERO-TORRES' statement and is not verbatim.

11. GUERRERO-TORRES advised that he did utilize cellular phone number 305-785-0205 and was utilizing it on the date of the minor child's disappearance. He further explained that the number was assigned to his Samsung smart phone and that he was the sole user of the device. According to GUERRERO-TORRES, he was in possession of the cell phone with that assigned number (305-785-0205), on the day of the disappearance of the minor child, however, he never stepped foot in Lee County. GUERRERO-TORRES went on to say that on the day of the minor child's disappearance, he traveled to Okeechobee from Orlando and his vehicle broke down which led to his brother assisting with getting the vehicle towed. He confirmed his vehicle to be a black Chevrolet Malibu bearing Florida identification #MAWO68. He could not drive the vehicle home so he left it behind and returned to his residence in Orlando, Florida in a GMC Safari, bearing Florida identification #MAX696.

12. GUERRERO-TORRES advised that he discarded the cellular phone with phone number 305-785-0205 in a grassy area off of a sidewalk near an apartment complex. GUERRERO-TORRES provided the code to unlock the cellular phone with phone number 305-785-0205.

13. The Florida Department of Law Enforcement (FDLE) obtained a court order to obtain the GPS coordinates of GUERRERO-TORRES' cell phone (305-785-0205). On June 3, 2016, the cell phone was tracked to Daytona, Florida. FDLE agents, along with detectives from LCSO, went to the location the cellular phone was tracked to and spoke with S.M., who was in possession of the cellular phone.

14. S.M. advised he worked as a landscaper and while he was working in Orlando, Florida, he found a cell phone in high grass, in a ditch, in an area of Barwood

Drive, in Orange County, Florida. He said the cellular phone was locked with a code and he could not gain entry into it. He said that a person by the name of "Jorge" called the phone and told S.M. he could keep it. After S.M. left work, he went home to his residence in Daytona, Florida in possession of the cellular phone. S.M. never obtained the code to unlock the cellular phone and never gained entry into it. The Samsung cellular phone was turned over to law enforcement.

15. Due to the fact that the Samsung cellular phone was abandoned on a roadside in Orlando, Florida and the exigent circumstances in locating the minor child, a forensic examination was conducted on the Samsung cellular phone on June 5, 2016. Your affiant reviewed the forensic data and observed numerous images associated with the cellular phone. A variety of the images included "selfies" of GUERRERO-TORRES. In addition, your affiant observed multiple images of child pornography.

16. One image was a close-up of a prepubescent vagina, with what appeared to be an adult male's thumb slightly pulling one side of the vagina open. The adult male's thumb was also holding the blue/pink panties to the side of the vagina. A second image was a close up of what appeared to be the same prepubescent vagina, with an adult male's thumb and index finger pulling the vagina open. The adult male's thumb was holding the blue/pink panties to the side of the vagina.

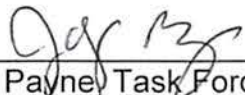
17. Another image was a close-up of a prepubescent vagina, with what appeared to be semen present in the area of the vagina. According to the data associated with the image, the date corresponding with the file is December 16, 2015.

18. The prepubescent subject(s) associated with the above described images has not yet been identified.

19. The Samsung cellular phone associated with phone number 305-785-0205 was examined by your affiant and based upon its content, is believed to have been manufactured in China. As a result, the Samsung cellular phone traveled in and affecting interstate and foreign commerce.

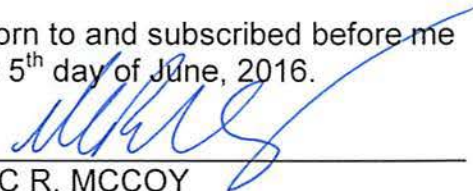
CONCLUSION

20. Based on the above, your affiant respectfully submits that there is probable cause to believe that on or about May 29, 2016, in the Middle District of Florida, JORGE GUERRERO-TORRES knowingly possessed child pornography in violation of 18 U.S.C. §§ 2252A(a)(5)(B).



Jody Payne, Task Force Agent
Federal Bureau of Investigations

Sworn to and subscribed before me
this 5th day of June, 2016.



MAC R. MCCOY
United States Magistrate Judge