

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:18-cr-68-T-35TGW

KYLE DALE RITSEMA

**NOTICE OF MAXIMUM PENALTIES, ELEMENTS OF OFFENSE,
PERSONALIZATION OF ELEMENTS AND FACTUAL BASIS**

The United States of America, by Maria Chapa Lopez, United States Attorney for the Middle District of Florida, hereby files this Notice of Maximum Penalties, Elements of Offense, Personalization of Elements and Factual Basis, stating as follows:

ESSENTIAL ELEMENTS

Count One: The essential elements of a violation of 18 U.S.C. § 2251(a) and (e), production of child pornography, are as follows:

- First:** an actual minor, that is, a real person, who was less than 18 years old, was depicted;
- Second:** the defendant employed, used, persuaded, induced, enticed, or coerced the minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of the conduct; and
- Third:** the visual depiction was produced or transmitted using materials that had been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means,

including by computer, or the depiction was actually transported or transmitted in or affecting interstate or foreign commerce.

Counts Two and Three: The essential elements of a violation of 18 U.S.C. § 2252(a)(2) and (b)(1), distribution of child pornography, are as follows:

- First: the defendant knowingly distributed a visual depiction;
- Second: the depiction was shipped or transported in interstate or foreign commerce by any means, including computer;
- Third: producing the visual depiction involved using a minor engaged in sexually explicit conduct;
- Fourth: the depiction is of a minor engaged in sexually explicit conduct; and
- Fifth: the defendant knew that at least one performer in the visual depiction was a minor and knew that the depiction showed the minor engaged in sexually explicit conduct.

Count Four: The essential elements of a violation of 18 U.S.C. § 2252(a)(4)(B) and (b)(2), possession of child pornography, are as follows:

- First: the defendant knowingly possessed one or more matters which contained any visual depiction of a minor engaged in sexually explicit conduct;
- Second: that such visual depiction had been mailed, shipped, or transported in interstate or foreign commerce, by any means, including by computer, or was produced using materials which had been so mailed, shipped, or transported;
- Third: that the production the visual depiction involved the use of a minor engaging in sexually explicit conduct and the visual depiction was of such conduct; and

Fourth: the defendant knew that the visual depiction involved the use of a minor engaging in sexually explicit conduct.

PENALTIES

Count One: The penalty for the offense charged in Count One of the Indictment is a mandatory-minimum term of imprisonment of 15 years up to 30 years, a maximum fine of \$250,000, a term of supervised release of at least five years up to life, and a special assessment of \$100.

Counts Two and Three: The penalty for the offenses charged in Counts Two and Three of the Indictment is a mandatory-minimum term of imprisonment of five years up to 20 years, a maximum fine of \$250,000, a term of supervised release of at least five years up to life, and a special assessment of \$100.

Count Four: The penalty for the offense charged in Count Four of the Indictment is a maximum sentence of 10 years' imprisonment, a maximum fine of \$250,000, a term of supervised release of at least five years up to life, and a special assessment of \$100.

Additionally, under 18 U.S.C. § 3014, the Court shall impose a \$5,000 special assessment on any non-indigent defendant convicted of an offense in violation of certain enumerated statutes involving: (1) peonage, slavery, and trafficking in persons; (2) sexual abuse; (3) sexual exploitation and other abuse of children; (4) transportation for illegal sexual activity; or (5) human smuggling in violation of the Immigration and Nationality Act (exempting

any individual involved in the smuggling of an alien who is the alien's spouse, parent, son or daughter).

With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense, or to the community.

FORFEITURE

The defendant must forfeit property, pursuant to 18 U.S.C. § 2253(b), as outlined in the Indictment and Amended Bill of Particulars. Among the items that will be forfeited are the following: an Apple iPhone 6s, an Apple iPad, an Olympus camera, and a 2013 Ford Fusion Hybrid car.

FACTUAL BASIS

The defendant, Kyle Dale Ritsema, is an adult male born in 1982. In or around 2014, Ritsema met William Matthew Napolitano, a transportation manager for Pasco County Schools. Ritsema and Napolitano soon discovered that they were both employees of Pasco County Schools and discussed their employment. Ritsema and Napolitano also conversed about their shared interest in having sex with minors.

From an unknown date but from at least as early as in or around November 2014, Ritsema connected with minor victim B.N.C., who was born

in June 2000, on the mobile internet-based application “Grindr.” Ritsema saved B.N.C.’s telephone number into his mobile phone, an Apple iPhone 6s, as “[B.] Boy.” B.N.C. was 14-years old when he met Ritsema. Ritsema knew that B.N.C. was as young as 15-years old when they met and Ritsema communicated that fact to multiple other persons via text message. For example, in March 2015, Ritsema text-messaged his friend, M.P.H.: “Going to pick up my little boy...I’ll try to take a couple of pics. Lol,” referring to B.N.C. Ritsema also sent Napolitano text messages about B.N.C., at one point stating, “I think 15,” in response to Napolitano inquiring about B.N.C.’s age. Ritsema also knew that B.N.C. came from a broken home.

After Ritsema met B.N.C. in person, he and B.N.C. had sexual contact on at least five occasions over the course of approximately one year. During one such occasion, on March 21, 2015, Ritsema drove to B.N.C.’s neighborhood and picked up him up in Ritsema’s 2013 Ford Fusion car. Ritsema took a photograph of B.N.C. in his car after he had picked him up. Ritsema then drove B.N.C. to Ritsema’s villa in New Port Richey, Florida, which is located in the Middle District of Florida. There, Ritsema began to touch B.N.C. under his shirt and discussed sex with him. Ritsema and B.N.C. then engaged in unprotected oral and anal sex.

During this encounter, while B.N.C. was in Ritsema's bedroom, Ritsema used his smartphone to take several photographs of B.N.C. Ritsema's smartphone moved in and affected interstate and foreign commerce and contained components that moved in and affected interstate and foreign commerce. The photographs that Ritsema produced of B.N.C. depict and center on B.N.C.'s genitals and anus, convey an apparent willingness to engage in sexual activity, and were created with the aim of eliciting a sexual response from their viewer. The photographs included the following images:

- **IMG_4161.JPG**: this image is focused on B.N.C.'s genital area while he lays on his back on a white sheet in Ritsema's bed. B.N.C.'s legs are spread apart. B.N.C.'s testicles are sitting above his anus, which is fully exposed. The primary focus of the image is B.N.C.'s anus.
- **IMG_4162.JPG**: is an image of B.N.C. standing nude by Ritsema's bed. B.N.C.'s face is not visible—the image shows the collarbone area down to the mid-thigh area. B.N.C.'s penis is visible and is partially erect.
- **IMG_4158.JPG**: this image shows B.N.C. laying on his back in Ritsema's bed. The image is taken from a downward angle, depicting B.N.C.'s lower chest down to his mid-thigh area. B.N.C.'s erect penis and testicles are also in the image. Ritsema's hand is placed on B.N.C.'s left, inner thigh.
- **IMG_4160.JPG**: this image shows B.N.C. laying down in Ritsema's bed. B.N.C.'s body is visible from his upper chest area to his mid-thigh area. B.N.C.'s penis is erect. The picture is taken from a side angle.

That same day, Ritsema shared the details of that encounter with multiple people, including Napolitano and M.P.H. Ritsema text messaged Napolitano a picture of B.N.C., to which Napolitano replied: "Mmmm ;) hot

man!” Ritsema stated that B.N.C. was from a local school and proceeded to share intimate details of his encounter with him that day, which included the following: “I made him cum twice. He fucked me...[B.N.C.] came while I fuckrf [sic] him and while he fucked me...Stayed hard the entire time...I couldn’t pass up that boy. And he usually only meets late at night so it was perfect... That was only the second time he's ever topped. First time he came from it...Just dropped him off. That car pic I took right when I sent it... I still want to play more.”

In addition to sharing details of his encounter with B.N.C., on March 21, 2015, Ritsema also used his smartphone to send Napolitano multiple photographs of B.N.C. that constitute child pornography. The text-message transmissions included the following images, which are described above: IMG_4161.JPG; IMG_4162.JPG; IMG_4160.JPG; and IMG_4158.JPG.

Ritsema similarly conversed via text-message with M.P.H. about Ritsema’s encounter with B.N.C. In addition to text-messaging M.P.H. images depicting B.N.C.—that is, IMG_4161.JPG, IMG_4162.JPG, IMG_4160.JPG, and IMG_4158.JPG—Ritsema shared sexual details and joked about B.N.C.’s age. When asked how old B.N.C. was, Ritsema responded: “Idk ;-)...Don’t say anything...I think 15...” M.P.H. later stated “Are you sure he’s 15 lol,” commenting that B.N.C. looks younger. Ritsema

replied “No. Lol. Why?...Late bloomer?” Ritsema also commented that B.N.C. “...used to have no pubes at all.”

From March 2015 until February 13, 2018, Ritsema knowingly possessed and stored images depicting B.N.C. engaged in sexually explicit conduct—that is, IMG_4161.JPG, IMG_4162.JPG, IMG_4160.JPG, and IMG_4158.JPG, described above—using, among other devices, his iPad. Ritsema’s iPad moved in an affected interstate and foreign commerce. Law-enforcement officers discovered Ritsema’s iPad in his residence in the Middle District of Florida

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2018, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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