

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Middle District of Florida

United States of America )
v. )
Andres Fernando Cabezas )

Case No. 6:17-mj- 1452

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 5/25/2017 through 5/30/2017 in the county of Seminole, Orange, and Lake in the Middle District of Florida, the defendant(s) violated:

Code Section 18 U.S.C § 2422(b) Offense Description Online enticement of a minor to engage in sexual activity.

This criminal complaint is based on these facts:

Continued on the attached sheet.

Kevin Kaufman (handwritten signature)

Complainant's signature

SA Kevin Kaufman, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 5/31/2017

(handwritten signature)

Judge's signature

City and state: Orlando, FL

Hon. Daniel C. Irick, U.S. Magistrate Judge

Printed name and title

STATE OF FLORIDA  
COUNTY OF ORANGE

CASE NO. 6:17-mj-1452

AFFIDAVIT

I, Kevin Kaufman, Special Agent, Federal Bureau of Investigation (FBI),  
after being duly sworn, depose and state the following:

INTRODUCTION

1. I am a Special Agent with the FBI and have been so employed for approximately 13 years. I am currently assigned to the Violent Crimes Against Children Task Force of the Orlando, Florida, office of the FBI, and participate in the investigations of sex crimes, child exploitation, child pornography, and computer crimes. I have participated in investigations of persons suspected of violating federal child pornography laws, including 18 U.S.C. §§ 2252 and 2252A. I have also participated in investigations of persons suspected of violating federal laws pertaining to the enticement of minors under 18 U.S.C. § 2422(b). I have participated in various training courses for the investigation and enforcement of federal child pornography laws in which computers are used as the means for receiving, transmitting, and storing child pornography. Additionally, I have been involved in authoring and participated in the execution of search warrants involving searches and seizures of computers, computer equipment, software and electronically stored information.

2. I make this affidavit based upon personal knowledge derived from my participation in this investigation; information that I have learned from discussions with other FBI Special Agents and other law enforcement officers; and my review of evidence recovered in this investigation. Because this affidavit is being submitted for the limited purpose of establishing probable cause for the issuance of a criminal complaint for **ANDRES FERNANDO CABEZAS (CABEZAS)**, I have not set forth each and every fact I learned as a result of this investigation. Rather, I have set forth only those facts I believe are necessary to establish probable cause that a violation of federal law has been committed. Unless otherwise noted, all statements of other persons described herein are set forth in substance and in part, rather than verbatim.

3. This affidavit is submitted in support of a criminal complaint against **CABEZAS** for a violation of 18 U.S.C. § 2422(b). As set forth in more detail below, I believe there is probable cause that **CABEZAS**, using facilities and means of interstate commerce, that is, the Internet and a cellular phone, did knowingly attempt to persuade, induce, or entice an individual who had not attained the age of 18 years to engage, through an adult intermediary, in sexual activity for which any person could be charged with a criminal offense under Florida law, that is, Lewd or Lascivious Battery, a violation of Fla. Stat. § 800.04(4); all in violation of 18 U.S.C. § 2422(b).

4. 18 U.S.C. § 2422(b) prohibits a person from using a means and facility of interstate or foreign commerce to knowingly attempt to persuade, induce, or entice an individual who has not attained the age of 18 years to engage in prostitution or any sexual activity for which any person could be charged with a criminal offense.

5. As a matter of law, "Lewd or Lascivious Battery" is a crime under Florida law. A person commits "Lewd or Lascivious Battery" by (a) engaging in sexual activity with a person 12 years of age or older but less than 16 years of age; or (b) encouraging, forcing, or enticing any person less than 16 years of age to engage in prostitution, or any other act involving sexual activity.

#### SUMMARY OF INVESTIGATION

6. On May 25, 2017, while working in an undercover capacity from my office in Orange County, I posted an advertisement on the Internet stating, "Taboo Thursday – ww4m (32771)." The body of the advertisement stated, "Taboo is always best within the family. Looking for likeminded individuals to join in the fun. Must be discreet and non judgmental. TTFN." The term "TTFN" means "Ta Ta For Now."

7. On May 25, 2017, CABEZAS responded to the advertisement via e-mail, "Hey there, I saw your ad, I'm intrigued. Can you send me a few more details? And if you'd like, maybe a pic?" I responded "This is not about me!!!

Mom with 12 yo daughter looking to gain new life experiences for my daughter." The following e-mail conversation ensued:<sup>1</sup>

AC: I see. Life experiences are very important to have. They teach you wisdom. What did you want your daughter to learn?

UC: If you have to ask maybe this ad is not for you...silly.

AC: Ok, maybe I did walk into that one. But I do like to let my mind picture what to expect. It helps with the overall experience of being with somebody. Just a quirk of mine. Anyway, I am still interested. What would you like me to do?

UC: Its definitely not about me...I want it to be about my daughter. shes 12 yo and is becoming a woman.

AC: That's really generous of you. It's really hard to get that kind of experience and not feel shame and pressure from others. Better to have it in a place where she feels safe, unrushed, and allowed to explore. So what would she like then?

UC: I like to leave that up to her. she gets out of school in a couple of hours. she graduates 7th grade today and I need to go buy her a gift. lol.

AC: Congrats for her then! Hope you can find her something nice. :) So where could I meet her? Has she seen my picture yet? Would she like to talk or anything? Sorry for the barrage, just want to know her a little better.

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<sup>1</sup> In the following conversation, "UC" stands for undercover officer, while AC stands for Andres Fernando **CABEZAS**, the defendant.

UC: she will be out of school at 2. she can talk to you then when she gets home???

AC: Sure. Have her email me first if she likes. I'll be an open book. :)

AC: She can also text me at 407[-xxx-xxxx]

8. From May 25, 2017 to May 30, 2017, I posed as a 12-year-old female named "Kate" and communicated with **CABEZAS**. On May 25, 2017, I texted **CABEZAS**, "hello its kate..." **CABEZAS** responded, "Hi Kate. I'm Andrew. Yeah, I've been talking with your mom for a bit. How are you doing today." **CABEZAS** and I spoke through text messaging and during this time, I informed **CABEZAS** I had just gotten out of school for the summer. **CABEZAS** asked me where I lived and when asked if he was going to visit me, **CABEZAS** responded, "Sure, but only if you like me:) and feel cool with me coming by."

9. The conversation continued and I asked **CABEZAS** what he would teach me. **CABEZAS** asked me, "But what would you want to know most?" I explained to **CABEZAS**, "idk. ur the adult...i have no experience with anyone except my past bfs." **CABEZAS** responded, "Lol, right. I forgot for a sec. anyway, have you done a lot of stuff with your ex-bfs?" I informed **CABEZAS** I did not have much experience and asked **CABEZAS** if he was coming to see me. **CABEZAS** said, "Maybe. :) When would you like to see

me? You did see my pic right?” **CABEZAS** asked me to describe myself and asked for my eye color. **CABEZAS** also asked, “Do you mind if I see what you look like?”

10. I explained to **CABEZAS** that my mom did not want me to send any pictures out and asked **CABEZAS** his age. **CABEZAS** replied “Like, 30-ish.” **CABEZAS** asked me why I did not have a boyfriend my age and I told him “my boys my age r stupid. they act like kids.” **CABEZAS** replied, “Yeah, I know. They can be jerks.” **CABEZAS** then informed me that he had free time on Tuesday and may be available to see me.

11. On May 26, 2017, **CABEZAS** reached back out to me (still acting as the undercover persona of Kate, a 12-year-old female) via text messaging, saying, “Hey Kate, how’s your day?” **CABEZAS** asked me, “So what do you think about Tuesday?” and I responded, “What’s Tuesday.” **CABEZAS** responded, “I have that day next week free, if you wanted to do something. Like, anything.” I responded, “Hehehe. Like what?” **CABEZAS**’s response was, “You’re gonna get me in trouble, you.” **CABEZAS** then said, “Maybe just something small at first if you want. Like touching, kissing, those kinds of things.” **CABEZAS** again asked me what I looked like and asked for a picture of myself.

12. I explained to **CABEZAS** I enjoyed discussing what he would

teach me and **CABEZAS** stated, “You know, you don't always need somebody around to help you explore this stuff. You can try touching yourself on the outside, see what you like and don't. And you can do it in a place that's quiet and private.” As the conversation continued, I asked **CABEZAS** what we would do when we met; **CABEZAS** explained, “Anything you would like. But maybe starting with a just some really light touching.” **CABEZAS** then stated, “Just caressing and touching your warm skin and soft hair. And then maybe moving on with just some light kisses. On your lips, your cheeks, your ears, neck, and hands.”

13. **CABEZAS** then asked me, “Do you like so far?” I responded, “Yes, Than what?” **CABEZAS** stated, “And then we'll start kissing more passionately, as I move my hands all over your curves, taking in your tastes and smells of your breath and hair. Then we can slowly start takings things off, one at a time...” **CABEZAS** asked, “So what would you want then?” I asked, “Would we be naked???”

14. **CABEZAS** stated, “Lol. Ok, so if we were together, and naked, I'd first start by running my tongue over your belly button, and up to your breasts. I'd put my lips all over both of them, gently sucking and licking them, while I move my hands over your thighs and butt. Then I'd kiss you deeply, and start moving my head back down, kissing you all the way back to your belly



button. Slowly and gently, I'd open open your legs and kiss your womanhood, gently at first. Then I'd pull you closer to my mouth, and start licking you up and down slowly, every now and then sucking on your lower lips."

15. CABEZAS asked, "Still good" and I responded, "What's women hood?" CABEZAS responded, "Your vagina. I'd want to taste and kiss her." I replied, "Who is her?" CABEZAS replied, "Lol, vagina again." I asked CABEZAS if it would hurt me. CABEZAS responded, "The kissing and licking? No, it shouldn't at all. It should feel good, since it's all on the outside." CABEZAS continued to engage me in conversation by stating, "Then, if you were wet and ready, I would take my hard penis, and rub it between your vagina lips, getting the head and shaft all wet and ready to put in you. I'd then lay you down on your back, and slowly move up as I open your legs more."

16. I asked CABEZAS again, "Would that hurt. I don't want to get pregnant©." CABEZAS responded, "It shouldn't, if we go slow and you're relaxed. Also, there are things that we can use before or after to make sure that pregnancy doesn't happen." I responded, "Ok I'm 12 and don't want a baby. My mom would kill me. Lol." CABEZAS explained "Lol, don't worry. People have sex all the time and don't get pregnant. You just need to get the right things before or after to make sure it doesn't happen." CABEZAS told me he would check in with me on Monday night and asked me when I would want to meet

him.

17. On May 29, 2017, **CABEZAS** reached out to me via text messaging: "Hey Kate, how was your Memorial Day?" **CABEZAS** asked if I wanted to meet the next day and I asked **CABEZAS** what we would do. **CABEZAS** replied, "I thought we could just hang and see how it goes. :) I can come by anytime after 9:00. When and where would you like to meet?"

18. On May 30, 2017, **CABEZAS** again reached out to me (acting as the undercover persona of Kate) via text message: "Hey you. :) I'm up and free now. If you want to hang out or just text today, let me know." **CABEZAS** asked me, "So what's your plan today?;)" I responded, "Idk what u going to do?" **CABEZAS** responded, "I'm thinking about going to see you, and having some fun. What do you think?" I responded, "that would be kewl. what u want to do??" **CABEZAS** responded, "How about you meet me as if you were ready to take a swim, so that way I can explore all of your body really quickly? Feel all of you with my hands and lips."

19. I asked **CABEZAS**, "and I wont get pregnant??? my mom would killlllll me if I had a baby at 12." **CABEZAS** responded, "I'll bring some stuff. There's something you can take after that can keep you from getting pregnant. Besides, we can start just with our mouths, and see if we want to do more..." I asked **CABEZAS** if it would hurt and **CABEZAS** told me, "No, I promise it

won't. As long as we go slow and you feel relaxed. The last thing I want is to hurt you. But there are all kinds of ways we can have fun. ;) Was there something you really wanted to try?"

20. I responded "idk...I don't know much...like what." **CABEZAS** replied, "How about kissing you down there? I can use my tongue and lips to make you feel really good. I can move up and down all over you, but there's one spot that is really sensitive on the outside that feels really good when you touch it softly. After you'll be very wet, and probably want to do more. If you want, you can try touching me too. ;) Have you ever used your mouth on a guy?" I asked if I could get pregnant and **CABEZAS** responded, "Nope. :) You would to cum inside of your pussy, and not have any birth control. And your body would have to be ready for that, like ovulating. It's actually really hard to get pregnant, unless you do everything wrong. Cum anywhere else, you mouth, body, booty, won't get you pregnant. But I can bring stuff, and make sure that you don't get pregnant. So don't worry about that. :)" **CABEZAS** and I agreed we would meet at 2:00 p.m. and I told **CABEZAS** I would call him with the address of the fast-food restaurant where we planned to meet.

21. On May 30, 2017, at approximately 1:43 p.m. and 1:44 p.m., two recorded conversations occurred in which **CABEZAS** spoke to an undercover employee acting as Kate, the notional 12-year-old girl. During the first

conversation, Kate called **CABEZAS** to provide him with the address of the Wendy's. **CABEZAS** stated he would meet the 12-year-old-girl at the restaurant and informed her that he was almost at the location. In order to make sure **CABEZAS** had the right address for the restaurant a second call was placed. During this call, the 12-year-old-girl provided **CABEZAS** the address to the restaurant and told **CABEZAS** she did not want to get pregnant. **CABEZAS** explained to the 12-year-old-girl that he had it covered and told her he would see her soon.

22. At approximately 2:00 p.m., I observed a male matching **CABEZAS's** description park a gold pick-up truck in the restaurant parking lot. The restaurant is located in Lake Mary, Seminole County, Florida. The male, later identified as **CABEZAS**, exited the vehicle and went to walk into the restaurant. Thereafter, **CABEZAS** was contacted by law enforcement and was placed under arrest.

#### **Interview of ANDRES CABEZAS**

23. I advised **CABEZAS** of his *Miranda* rights. **CABEZAS** acknowledged his *Miranda* rights and agreed to speak with SA Hyre and me. The following is a summary of **CABEZAS's** statements: On May 25, 2017, **CABEZAS** answered a Craigslist advertisement that was about "family." **CABEZAS** was interested in the advertisement because of the title "taboo."

When **CABEZAS** responded to the advertisement, **CABEZAS** began communicating with a mother of a 12-year-old daughter. During the conversation, **CABEZAS** stated the mother was interested in finding a “sexual engagement” for her 12 year-old- daughter. **CABEZAS** asked the mother what “sexual engagements” her daughter wanted and the mother told **CABEZAS** to speak to her daughter. **CABEZAS** provided a “spoof” phone number to the mother so her daughter could contact him.

24. On May 25, 2017, **CABEZAS** received a text message from “Kate,” whom he believed to be a 12- year-old-girl. **CABEZAS** engaged the 12-year-old girl in sexual conversation over text messaging. **CABEZAS** told the girl he wanted to engage the girl in oral sexual intercourse both ways and vaginal sexual intercourse. **CABEZAS** arranged to meet the 12-year-old-girl on May 30, 2017. **CABEZAS** explained to the 12-year-old-girl what sexual acts he was going to perform on her when they met on May 30, 2017. When **CABEZAS** was asked by the 12-year-old-girl if she was going to get pregnant, **CABEZAS** reassured the 12-year-old-girl she wouldn’t because **CABEZAS** would take precautions.

25. On May 30, 2017, **CABEZAS** contacted the 12-year-old girl and asked if she wanted to meet him. **CABEZAS** asked the 12-year-old girl where and when she would like to meet. The 12-year-old-girl asked **CABEZAS** what

he was going to do. **CABEZAS** responded by telling the 12-year-old girl he would kiss her and they would do oral sexual intercourse on each other. **CABEZAS** and the 12-year-old-girl agreed to meet at a [fast-food restaurant] in Lake Mary, Florida. Prior to meeting the 12-year-old-girl, **CABEZAS** stopped and purchased an emergency contraceptive pill at a CVS in Clermont, Florida. **CABEZAS** planned to give the 12-year-old girl the pill after sexual intercourse in order to prevent her from getting pregnant.

26. On May 30, 2017, **CABEZAS** arrived at the fast-food restaurant in Lake Mary, Florida, to meet the 12-year-old girl and engage in oral sexual intercourse and vaginal sexual intercourse.

27. During the interview, **CABEZAS** provided written and verbal consent to search his cellular telephone and the vehicle he used to drive to the meeting location. I reviewed the cellular telephone with **CABEZAS**; he directed me to the text conversation **CABEZAS** and I had since May 25, 2017. Additionally, Task Force Agent J. Steve McElyea searched **CABEZAS's** vehicle and discovered a CVS bag containing an emergency contraceptive pill. **CABEZAS** stated he purchased the pill on May 30, 2017, from a CVS located in Clermont, in Lake County. **CABEZAS** paid approximately \$39.00 for the pill and utilized his Discover credit card.

28. **CABEZAS** said that since age 12 he has been attracted to girls

around 12 years of age and older. **CABEZAS** believed he made a mistake by showing up to meet the 12-year-old girl. **CABEZAS** is a middle school teacher at Carver Middle School in Leesburg, Florida, and teaches Technology. As recently as three weeks ago, **CABEZAS** visited the dark web and watched videos of children as young as toddler age engaging in sexual acts with adults, which he acknowledged was child pornography. **CABEZAS** said he first viewed child pornography when he was 17 years of age. **CABEZAS** believed these videos were very disturbing.

#### CONCLUSION

29. I believe there is probable cause that **CABEZAS**, using facilities and means of interstate commerce, that is, the Internet and a cellular phone, did knowingly attempt to persuade, induce, or entice an individual who had not attained the age of 18 years to engage in sexual activity for which any person could be charged with a criminal offense under Florida law, that is, Lewd or

Lascivious Battery, a violation of Fla. Stat. § 800.04(4); all in violation of 18 U.S.C. § 2422(b).

This concludes my affidavit.



Kevin Kaufman, Special Agent  
Federal Bureau of Investigation

Sworn to and subscribed before me  
This 31<sup>st</sup> day of May, 2017.



DANIEL C. IRICK  
United States Magistrate Judge