

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Criminal No. 19-855
	:	
v.	:	
	:	18 U.S.C. § 2251(a)
RAMON ZELAYA,	:	18 U.S.C. § 2252A(a)(2)(A)
a/k/a "Richar Mariel,"	:	18 U.S.C. § 2252A(a)(5)(B)
a/k/a "brandon_javier17,"	:	18 U.S.C. § 371
a/k/a "Massiel Bautista"	:	18 U.S.C. § 2

SUPERSEDING INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark,
charges:

COUNT 1
**(Conspiracy to Sexually Exploit a Child
and to Distribute Child Pornography — Victim-1)**

Relevant Persons and Entities

1. At all times relevant to this Indictment:
 - a. Defendant RAMON ZELAYA, a/k/a "Richard Mariel," a/k/a "brandon_javier17," a/k/a "Massiel Bautista" ("ZELAYA") resided in or around Essex County, New Jersey.
 - b. "Individual-1" resided in or around the Dominican Republic.
 - c. "Victim-1" was an infant child.

The Conspiracy

2. On or about April 21, 2018, in Essex County, in the District of New

Jersey, and elsewhere, the defendant,

RAMON ZELAYA,

knowingly and intentionally conspired with Individual-1 and with others to:

(a) employ, use, persuade, induce, entice, and coerce a minor, Victim-1, to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, knowing and having had reason to know that the visual depiction would be transported and transmitted using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce, and using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer; to wit: a digital image depicting Individual-1's engaging in sexually explicit conduct with Victim-1, as directed by ZELAYA using Facebook, that was transmitted via Facebook, contrary to Title 18, United States Code, Section 2251(a); and

(b) knowingly distribute child pornography, as defined in Title 18, United States Code, Section 2256(8), that has been shipped and transported in and affecting interstate and foreign commerce by any means, including by computer; to wit, a digital image depicting Individual-1's engaging in sexually explicit conduct with Victim-1, as directed by ZELAYA using Facebook, that was distributed using Facebook, contrary to Title 18, United States Code, Sections 2252A(a)(2)(A) and 2.

The Goal of the Conspiracy

3. The goal of the conspiracy was for ZELAYA and Individual-1 to

sexually exploit Victim-1 and share images of that sexual exploitation.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that:

a. ZELAYA would direct Individual-1 to sexually exploit Victim-1 in specific ways.

b. Individual-1 would send images depicting the sexual exploitation of Victim-1 to ZELAYA via Facebook.

Overt Acts

5. In furtherance of the conspiracy and to effect the illegal objects of the conspiracy, the following overt acts, among others, were committed in the District of New Jersey and elsewhere:

a. On or about April 21, 2018, ZELAYA, using Facebook, instructed Individual-1 to insert Individual-1's entire finger into Victim-1's vagina and to send ZELAYA photographs of the same.

b. On or about April 21, 2018, ZELAYA, using Facebook, instructed Individual-1 to insert half of Individual-1's finger into Victim-1's vagina and to send ZELAYA photographs of the same.

c. On or about April 21, 2018, ZELAYA, using Facebook, promised to provide Individual-1 with access to money in exchange for the photographs referenced in paragraphs 5(a) and 5(b) above.

d. On or about April 21, 2018, ZELAYA received at least three images from Individual-1 via Facebook, each depicting an adult finger inserted into Victim-1's vagina.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO
(Sexual Exploitation of a Child — Victim-1)

1. Paragraphs 1 and 4 through 5 of Count One of this Indictment are re-alleged and incorporated herein.

2. ~~From at least as early as on or about September 25, 2018 through at least on or about October 1, 2018, in Essex County, in the District of New Jersey, and elsewhere, the defendant,~~ *On or about April 21, 2018*

RAMON ZELAYA,

did employ, use, persuade, entice, and coerce a minor, Victim-1, to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, knowing and having reason to know that such visual depiction would be transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting interstate commerce, and which visual depiction was transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce; to wit: a digital image depicting Individual-1's engaging in sexually explicit conduct with Victim-1, as directed by ZELAYA using Facebook, that was transmitted via Facebook,

In violation of Title 18, United States Code, Sections 2251(a) and 2.

COUNT THREE
(Distribution of Child Pornography — Victim-1)

1. Paragraphs 1 and 4 through 5 of Count One of this Indictment are re-alleged and incorporated herein.

2. ~~From at least as early as on or about September 25, 2018 through at least on or about October 1, 2018, in Essex County, in the District of New Jersey, and elsewhere, the defendant,~~ *on or about April 21, 2018,*

RAMON ZELAYA,

knowingly distributed material containing child pornography, as defined in 18 U.S.C. § 2256(8), that had been shipped and transported in and affecting interstate and foreign commerce, including by computer, and that had been shipped and transported using a means and facility of interstate and foreign commerce; to wit, ZELAYA sent a digital image depicting Individual-1's engaging in sexually explicit conduct with Victim-1, from one Facebook account to another.

In violation of Title 18, United States Code, Sections 2252A(a)(2)(A), (b)(1), and 2.

COUNT FOUR
(Receipt of Child Pornography — Victim-1)

1. Paragraphs 1 and 4 through 5 of Count One of this Indictment are re-alleged and incorporated herein.

2. From ~~at least as early as on or about September 25, 2018 through at least on or about October 1, 2018~~, in Essex County, in the District of New Jersey, and elsewhere, the defendant,

RAMON ZELAYA,

knowingly received child pornography, as defined in Title 18, United States Code, Section 2256(8), that had been shipped and transported in and affecting interstate and foreign commerce, including by computer, and that had been shipped and transported using a means and facility of interstate and foreign commerce; to wit, ZELAYA received a digital image depicting Individual-1's engaging in sexually explicit conduct with Victim-1, which was transmitted by Individual-1 to a Facebook account controlled by ZELAYA.

In violation of Title 18, United States Code, Sections 2252A(a)(2)(A), (b)(1), and 2.

COUNT FIVE
(Possession of Child Pornography — Victim-1)

1. The allegations set forth in Paragraphs 1 and 4 through 5 of Count One of this Indictment are re-alleged and incorporated herein.

2. ~~From at least as early as September 25, 2018 through at least on or about October 1, 2018,~~ ^{On or April 21, 2018} in Essex County, in the District of New Jersey, and elsewhere, the defendant,

RAMON ZELAYA,

knowingly possessed and knowingly accessed with intent to view material that contained at least three images of child pornography, as defined in Title 18, United States Code, Section 2256(8), that had been shipped and transported using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce, including by computer, and that was produced using materials that have been mailed, and shipped and transported in and affecting interstate and foreign commerce, including by computer; to wit, digital images depicting Individual-1's engaging in sexually explicit conduct with Victim-1.

In violation of Title 18, United States Code, Sections 2252A(a)(5)(B), (b)(2), and 2.

COUNT SIX
(Sexual Exploitation of a Child — Victim-2)

1. From on or about August 20, 2018 through on or about September 20, 2018, in Essex County, in the District of New Jersey, and elsewhere, the defendant,

RAMON ZELAYA,

did employ, use, persuade, entice, and coerce a minor, Victim-2, to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, knowing and having reason to know that such visual depiction would be transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting interstate commerce, and which visual depiction was transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce; to wit, digital images depicting Victim-2, a minor, engaged in sexually explicit conduct.

In violation of Title 18, United States Code, Sections 2251(a) and 2.

COUNT SEVEN
(Receipt of Child Pornography — Victim-2)

1. From on or about August 20, 2018 through on or about September 20, 2018, in Essex County, in the District of New Jersey, and elsewhere, the defendant,

RAMON ZELAYA,

did knowingly receive and attempt to receive child pornography, as defined in Title 18, United States Code, Section 2256(8), that had been shipped and transported in and affecting interstate and foreign commerce, including by computer, and that had been shipped and transported using a means and facility of interstate and foreign commerce; to wit, digital images depicting Victim-2, a minor, engaged in sexually explicit conduct.

In violation of Title 18, United States Code, Sections 2252A(a)(2)(A), (b)(1), and 2.

COUNT EIGHT
(Possession of Child Pornography — Victim-2)

1. From on or about August 20, 2018 through on or about September 20, 2018, in Essex County, in the District of New Jersey, and elsewhere, the defendant,

RAMON ZELAYA,

did knowingly possess and attempt to possess, and knowingly access with intent to view and attempt to access with intent to view, material that contained at least three images of child pornography, as defined in Title 18, United States Code, Section 2256(8), that had been shipped and transported in and affecting interstate and foreign commerce, including by computer, and that had been shipped and transported using a means and facility of interstate and foreign commerce; to wit, digital images depicting Victim-2, a minor, engaged in sexually explicit conduct.

In violation of Title 18, United States Code, Sections 2252A(a)(5)(B), (b)(2), and 2.

FORFEITURE ALLEGATIONS

1. The allegations set forth above are realleged and incorporated herein by reference.

2. Upon conviction of any of the offenses set forth in this Indictment, defendant **RAMON ZELAYA** shall forfeit to the United States, pursuant to 18 U.S.C. § 2253, all of his right, title, and interest in the following:

- (a) Any visual depiction described in 18 U.S.C. §§ 2251, 2251A, 2252, 2252A, 2252B, or 2260, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of Title 18, United States Code, Chapter 110;
- (b) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from the offense set forth in this Indictment, and all property traceable to such property; and
- (c) Any property, real or personal, used or intended to be used to commit or to promote the commission of the offense set forth in this Indictment, and any property traceable to such property.

3. The property to be forfeited includes, but is not limited to, all of the defendant's right, title, and interest in the following items:

- (a) One Apple iPhone bearing International Mobile Equipment Identity ("IMEI") # 353318073465352;
- (b) One Apple iPhone bearing IMEI # 358372065982556;
- (c) Four black cellular telephones of unknown make, model, and IMEI; and
- (d) One (1) black LG cellular telephone bearing internal serial number 089446861504233017.

Substitute Assets Provision

4. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 2253, to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

A TRUE BILL




CRAIG CARPENITO
United States Attorney