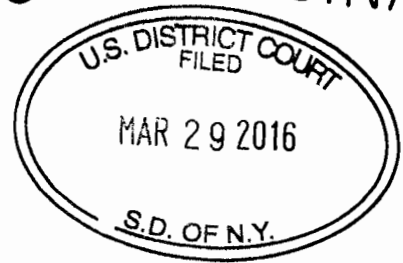


16 MAG 2043

ORIGINAL

Approved: Michael D. Neff  
MICHAEL D. NEFF  
Assistant United States Attorney



Before: HONORABLE JAMES C. FRANCIS IV  
United States Magistrate Judge  
Southern District of New York

DOC # \_\_\_\_\_

----- x COMPLAINT  
:  
UNITED STATES OF AMERICA : Violations of 18 U.S.C.  
: §§ 875(d); 2422(b);  
- v. - : 2251(a), (e);  
: 2252A(a)(5)(B),  
KELVIN ACOSTA, : (b)(2); 2252A(a)(2)(B),  
: (b)(1); and 2  
Defendant. :  
: COUNTY OF OFFENSE:  
----- x BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

AARON E. SPIVACK, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

(Coercion and Enticement of a Minor to  
Engage in Illegal Sexual Activity)

1. From at least in or about August 2015 up to and including at least in or about November 2015, in the Southern District of New York and elsewhere, KELVIN ACOSTA, the defendant, willfully and knowingly, did use a facility and means of interstate and foreign commerce to persuade, induce, entice, and coerce individuals who had not attained the age of 18 years to engage in sexual activity for which a person can be charged with a criminal offense, and attempted to do so, to wit, ACOSTA used a computer and/or mobile device and the Internet to persuade, induce, entice, and coerce multiple victims, including a 13-year-old child and a 14-year-old child, into sending images, videos, and live visual depictions of themselves engaging in sexual activity to ACOSTA over video chat and/or the Internet.

(Title 18, United States Code, Section 2422(b) and 2.)

**COUNT TWO**

(Sexual Exploitation of a Child)

2. From at least in or about August 2015 up to and including at least in or about November 2015, in the Southern District of New York and elsewhere, KELVIN ACOSTA, the defendant, willfully and knowingly did employ, use, persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and for the purpose of transmitting a live 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 and foreign commerce, which visual depiction was produced and transmitted using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer and/or mobile device, and was actually transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce, to wit, among other things, ACOSTA induced a 13-year-old child to engage in sexually explicit conduct during a video chat with ACOSTA.

(Title 18, United States Code, Sections 2251(a), (e), and 2.)

**COUNT THREE**

(Possession of Child Pornography)

3. From at least in or about August 2015 up to and including at least in or about November 2015, in the Southern District of New York and elsewhere, KELVIN ACOSTA, the defendant, knowingly did possess and access with intent to view, and attempt to possess and access with intent to view, a book, magazine, periodical, film, videotape, computer disk, and other material that contained an image of child pornography that had been mailed, shipped, and transported using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, ACOSTA possessed images of child pornography on a computer in his residence in the Bronx, New York.

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

**COUNT FOUR**

(Receipt of Child Pornography)

4. From at least in or about August 2015 up to and including at least in or about November 2015, in the Southern District of New York and elsewhere, KELVIN ACOSTA, the defendant, knowingly did receive and attempt to receive material that contains child pornography that had been mailed, and using a means and facility of interstate and foreign commerce shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, ACOSTA received by video chat live video images sent from a minor that contained sexually explicit images of that minor, as well as by downloading files from minors' email accounts that contained sexually explicit images of those minors.

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

**COUNT FIVE**

(Extortion)

5. From at least in or about December 2013 up to and including at least in or about November 2015, in the Southern District of New York and elsewhere, KELVIN ACOSTA, the defendant, with intent to extort from a person, money and another thing of value, knowingly did transmit in interstate and foreign commerce a communication containing a threat to injure the property and reputation of the addressee, to wit, through messages communicated in interstate and foreign commerce over the Internet, telephone, and/or video chat, ACOSTA threatened to publicly embarrass and humiliate several victims, including minors, in order to coerce those victims into (a) paying him money at a location in the Bronx, and/or (b) engaging in sexually explicit conduct on video and transmitting that video to ACOSTA.

(Title 18, United States Code, Section 875(d).)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

6. I have been a Special Agent with the FBI since October 2008. I am currently assigned to the Violent Crimes Against Children squad in the FBI's New York Field Office. I have been assigned to investigate violations of criminal law relating to child exploitation and child pornography, and I have received training regarding these cases. This affidavit is based upon my

personal participation in the investigation of this matter, my conversations with other law enforcement agents and witnesses, my conversations with victims, and my examination of reports and records. Because this affidavit is submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

#### Definitions

7. The following terms have the indicated meaning in this Complaint:

a. The terms "minor," "sexually explicit conduct," and "visual depiction," as used herein, are defined as set forth in Title 18, United States Code, Section 2256.

b. The term "child pornography," as used herein, is a visual depiction of a minor involved in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(8).

#### The Investigation

8. Based on my personal involvement in this investigation, my conversations with other law enforcement officers, my review of photographic and electronic records and documents, my review of Facebook search warrant returns, my review of Facebook messages between an individual whom I believe to be KELVIN ACOSTA, the defendant, and several victims, my review of documents maintained by law enforcement, and my own interview of multiple victims, I have learned, among other things, the following:

a. In late 2015, the New York City Police Department ("NYPD") received a tip from a 13-year-old girl ("Victim-1") who reported that she was manipulated into providing her email account information to an individual over Facebook using a particular account (the "FACEBOOK ACCOUNT"). The user of the FACEBOOK ACCOUNT (the "FACEBOOK ACCOUNT USER") -- believed to be ACOSTA, as set forth below -- told Victim-1 that he could get her a job if she provided him with her email address and phone number. The FACEBOOK ACCOUNT USER then told Victim-1 that the FACEBOOK ACCOUNT USER needed a code that was sent to the Victim-1's phone via text message. In actuality and unbeknownst to



Victim-1, the FACEBOOK ACCOUNT USER accessed Victim-1's email and utilized the "forgot password" function, prompting the email provider to send a text message to the phone on file to reset the password. Once the FACEBOOK ACCOUNT USER received this code from Victim-1, the FACEBOOK ACCOUNT USER changed Victim-1's email password and then extorted Victim-1 for child pornography. The FACEBOOK ACCOUNT USER told Victim-1 that he would send Victim-1's family and friends the nude photographs he obtained from Victim-1's email account unless Victim-1 sent him additional child pornography. Victim-1 subsequently sent the FACEBOOK ACCOUNT USER self-made child pornography in order to try to get her email account back.

b. Based on the information provided by Victim-1, the NYPD obtained a search warrant for contents of the FACEBOOK ACCOUNT for the period between approximately August 2015 and December 2015. I have reviewed the contents of the FACEBOOK ACCOUNT obtained through the search warrant, from which I have learned the following, among other things:

i. In addition to the "Anayeli Flores" user name, the user names "Miguel Santana" and "Miguel Dominican" are also associated with the FACEBOOK ACCOUNT.

ii. The FACEBOOK ACCOUNT USER had thousands of communications with individuals, mostly female, a number of whom appear to be minors. The conversations generally consist of the FACEBOOK ACCOUNT USER attempting to manipulate the other individuals into providing their email accounts, passwords, and phone numbers. The FACEBOOK ACCOUNT USER attempts to exploit these other individuals in order to obtain pornography -- and in the cases of the minors, child pornography.

iii. The conversations typically follow a similar pattern as that used by the FACEBOOK ACCOUNT USER with Victim-1: the FACEBOOK ACCOUNT USER offers a job and requests the individual's personal information; then, once the individual has been tricked into providing their personal information, the FACEBOOK ACCOUNT USER often tells the individual that he has "hacked" the individual's account and threatens to send the sexually explicit images and videos of the individual (in their account) to the individual's friends and family unless they produce additional pornography -- and in the cases of the minors, child pornography. In some cases, to prove he has hacked the account, the FACEBOOK ACCOUNT USER sends the individual the names and phone numbers of people within the individual's email contact list.

iv. The FACEBOOK ACCOUNT USER provides a phone number of (347) 856-3645 to several of the individuals with whom he communicates.<sup>1</sup>

VICTIM-1

9. In February 2016, I and other law enforcement officers interviewed Victim-1, who stated the following, in sum and substance, and among other things:

a. The FACEBOOK ACCOUNT USER (using the user name "Anayeli Flores") contacted Victim-1 over Facebook to offer her a job, and then, after receiving her email address and password, hacked her email and extorted her for child pornography.

b. Victim-1 had nude photographs of herself in her email that she had taken for her boyfriend. Victim-1 received a call on her phone from a blocked number, and the person calling was a male with a deep voice who Victim-1 did not recognize. Victim-1 was told by the FACEBOOK ACCOUNT USER that he is a hacker and he does this all the time. The FACEBOOK ACCOUNT USER told Victim-1 to video chat him over Facebook. The FACEBOOK ACCOUNT USER could see Victim-1, but Victim-1 could not see him. The FACEBOOK ACCOUNT USER then told Victim-1 to take her clothes off. Once Victim-1 was naked, the FACEBOOK ACCOUNT USER told her to "rub it," which Victim-1 understood to refer to Victim-1's vagina, and then told Victim-1 to stick her fingers inside her vagina. The FACEBOOK ACCOUNT USER told Victim-1, in sum and substance, "the faster it goes, the faster it ends." During this incident, the FACEBOOK ACCOUNT USER laughed and told Victim-1 he was taking pictures of her.

c. Victim-1 estimated she had several video chats with the FACEBOOK ACCOUNT USER in which she was nude and/or engaging in sexual acts.

10. I have reviewed the Facebook chats between the

---

<sup>1</sup> According to T-Mobile records, the subscriber for the phone number (347) 856-3645 is "Kelvin J Acosta," at a particular address in the Bronx, New York (the "ACOSTA Cellphone Number"). In addition, ACOSTA has identified the ACOSTA Cellphone Number to his New York State probation officer as belonging to him. ACOSTA is currently serving a three-year term of probation for his 2014 convictions for unauthorized use of a computer, in violation of New York Penal Law § 156.05, and coercion in the second degree, in violation of New York Penal Law § 135.60.

FACEBOOK ACCOUNT USER and Victim-1, which took place from approximately August 30, 2015 through approximately November 16, 2015, and have shown them to Victim-1, who has confirmed that they are the chats between her and the FACEBOOK ACCOUNT USER. Excerpts of the chats between Victim-1 and the FACEBOOK ACCOUNT USER include the following:<sup>2</sup>

**FACEBOOK ACCOUNT USER:** u want a barnes and noble job \$17 an hour as a cashier i can hook u up

**VICTIM-1:** where at?

**FACEBOOK ACCOUNT USER:** i can put u any one near u whats your email am send u the info

\* \* \*

**VICTIM-1:** Im only 13

**FACEBOOK ACCOUNT USER:** u can work my dad is the boss whats your email and number am send u the info

**VICTIM-1:** (Victim-1 provides a gmail.com email address)

**FACEBOOK ACCOUNT USER:** whats your phone number

**VICTIM-1:** (Victim-1 provides phone number)

**FACEBOOK ACCOUNT USER:** u going to get a google code text to u so i can send u the info okay

**VICTIM-1:** Okay

**FACEBOOK ACCOUNT USER:** whats the google code they text u

**VICTIM-1:** 912959

\* \* \*

---

<sup>2</sup> The following are excerpts only, and are not the full content of the communications between Victim-1 and the FACEBOOK ACCOUNT USER. This applies to the excerpts quoted for other victims included herein.

**FACEBOOK ACCOUNT USER:** i hack your email i got into your phone i got your family and friends number andnaked pics u have send am send to your family and friends

**FACEBOOK ACCOUNT USER:** u want me to text them your pics

**VICTIM-1:** No

**VICTIM-1:** Wait what

**FACEBOOK ACCOUNT USER:** i hack your email and your phone i got all your pics

**FACEBOOK ACCOUNT USER:** and family and friends phone number

**FACEBOOK ACCOUNT USER:** am text them your naked pics u want that

**VICTIM-1:** No

**FACEBOOK ACCOUNT USER:** if u block me am send to your family and friends and put it online

**VICTIM-1:** Okay

**FACEBOOK ACCOUNT USER:** im a good hacker lol

**VICTIM-1:** Yea

**FACEBOOK ACCOUNT USER:** i hack girls then i put there pic online and send to there friends and family and schoolemail

**VICTIM-1:** Why

**FACEBOOK ACCOUNT USER:** Its fun

**FACEBOOK ACCOUNT USER:** For me

**VICTIM-1:** Oh

**FACEBOOK ACCOUNT USER:** but u dont want me to do it to u

**VICTIM-1:** No i dont



**FACEBOOK ACCOUNT USER:** can we talk on the phone

**VICTIM-1:** Sure

**FACEBOOK ACCOUNT USER:** if any body else is on the line im hang up and block u and send to everyone okay

**VICTIM-1:** Okay

VICTIM-2

11. In February 2016, I and other law enforcement officers interviewed a 17-year-old victim ("Victim-2") of the FACEBOOK ACCOUNT USER, who stated the following, in sum and substance, and among other things:

a. Victim-2 received a friend request from the FACEBOOK ACCOUNT USER (using the user name "Miguel Santana") on Facebook, which Victim-2 accepted. The FACEBOOK ACCOUNT USER then asked Victim-2 if they could speak on the phone, so Victim-2 gave the FACEBOOK ACCOUNT USER her phone number. The FACEBOOK ACCOUNT USER and Victim-2 also used the video chat function on Facebook. During one of their phone conversations, Victim-2 told the FACEBOOK ACCOUNT USER she was 17 years old.

b. The FACEBOOK ACCOUNT USER asked for Victim-2's email account as well as a code that Victim-2 had received. Shortly thereafter, the FACEBOOK ACCOUNT USER told Victim-2 that he had hacked her email account and he had two videos of Victim-2 having sex; he was going to send these videos to Victim-2's family and friends if Victim-2 did not do what the FACEBOOK ACCOUNT USER told her to do.

c. The FACEBOOK ACCOUNT USER called Victim-2 and told her he was a hacker who had done the same thing to hundreds of girls. The FACEBOOK ACCOUNT USER then told Victim-2 to do several things, under threat of being exposed if she did not comply. The FACEBOOK ACCOUNT USER told Victim-2 to video chat him on Facebook. During this chat, the FACEBOOK ACCOUNT USER asked Victim-2 to stick a sharpie marker up her vagina, but Victim-2 refused. The FACEBOOK ACCOUNT USER told Victim-2 to stick her finger up her vagina; Victim-2 complied. The FACEBOOK ACCOUNT USER commented that he was videotaping these video chats.

d. The FACEBOOK ACCOUNT USER told Victim-2 to bring her phone to the bathroom and strip and also position the phone

so he could see Victim-2 take a shower; Victim-2 complied. The FACEBOOK ACCOUNT USER also told Victim-2 to touch the breast of her 13-year old cousin, who was sleeping in the same room as Victim-2; Victim-2 complied.

e. Victim-2 said that she had fewer than ten video chats where the FACEBOOK ACCOUNT USER made her engage in sexually explicit conduct.

f. During one of their chats, the FACEBOOK ACCOUNT USER heard Victim-2's father mention that he was leaving \$600 at the house. The FACEBOOK ACCOUNT USER told Victim-2 that he wanted the \$600, or he would expose her sexually explicit photographs and videos. Later that night, at approximately 1:00 a.m., the FACEBOOK ACCOUNT USER called Victim-2 and told her to get on the subway and bring him the money. The FACEBOOK ACCOUNT USER told Victim-2 to take the 6 train to the Saint Lawrence subway stop and when Victim-2 got there, she needed to video chat the FACEBOOK ACCOUNT USER and he would guide her so that she could bring him the money.<sup>3</sup> Victim-2 walked through a door and saw someone coming so she dropped the money and left. Victim-2 and the FACEBOOK ACCOUNT USER were video chatting the entire time she was walking to his location.<sup>4</sup> Victim-2 took the subway home and called FACEBOOK ACCOUNT USER when she arrived home. The FACEBOOK ACCOUNT USER told Victim-2 to block him on Facebook and that they were "done."

12. During the interview, Victim-2 identified photographs of KELVIN ACOSTA, the defendant, as the FACEBOOK ACCOUNT USER.

13. I have reviewed the Facebook chats between the FACEBOOK ACCOUNT USER and Victim-2, which took place from approximately November 24, 2015 through approximately November 26, 2015, and have shown them to Victim-2, who has confirmed

---

<sup>3</sup> During this video chat, FACEBOOK ACCOUNT USER's face was visible, and Victim-2 was able to screen-capture images of his face, which she provided to law enforcement. I have reviewed these images and believe that the individual depicted in them is KELVIN ACOSTA, the defendant, based on my comparison of the images to photographs of ACOSTA in law enforcement databases.

<sup>4</sup> During the interview, Victim-2 pointed out, on Google Maps, where the FACEBOOK ACCOUNT USER had directed Victim-2 to go once she got off the subway. Victim-2 navigated from the subway stop to a particular building in the Bronx, New York -- a building with the same address as where ACOSTA told his Probation Officer that he lived, and where his Probation Officer has visited him.

that they are the chats between her and the FACEBOOK ACCOUNT USER. Excerpts of the chats between Victim-2 and the FACEBOOK ACCOUNT USER include the following:

**FACEBOOK ACCOUNT USER:** i hack your email i got all the sex videos u mad and your family and friends phone number am send it to them in text

**FACEBOOK ACCOUNT USER:** u want that and put online

**FACEBOOK ACCOUNT USER:** and school email

**VICTIM-2:** Lmaoo What ?

**FACEBOOK ACCOUNT USER:** i got video of u having sex

**VICTIM-2:** Why would you do that ?

**FACEBOOK ACCOUNT USER:** i got your family and friends phone number im text to them and put it online

**FACEBOOK ACCOUNT USER:** it be there forever u want that

**VICTIM-2:** Why your doing this to me thou ???

**FACEBOOK ACCOUNT USER:** i do it to mad girls im hacker

**FACEBOOK ACCOUNT USER:** when u gave me the code i got in your email

\* \* \*

**FACEBOOK ACCOUNT USER:** why u so hairy lol

**FACEBOOK ACCOUNT USER:** i can block u and send it to everyone your school and your family and friends

**VICTIM-2:** Stop please ...

**FACEBOOK ACCOUNT USER:** try calling the cops or find me it wont work manny girls try

**FACEBOOK ACCOUNT USER:** it takes me two sec to put it

**VICTIM-2:** Why your Doing this to me thou ?

**FACEBOOK ACCOUNT USER:** i do it to every girl if they listen to me i leave them alone if they dont i exospe them

**VICTIM-2:** What do you want from me ?

**FACEBOOK ACCOUNT USER:** im call u if i hear any one else on the line im hang up and exospe u okay

**VICTIM-2:** Okay

\* \* \*

**FACEBOOK ACCOUNT USER:** Video call me

\* \* \*

**VICTIM-2:** I'm waiting for the 6 train now

\* \* \*

**VICTIM-2:** I'm home

**FACEBOOK ACCOUNT USER:** What they say when you got the home

**VICTIM-2:** They gave me a speech

**FACEBOOK ACCOUNT USER:** Is not as bad what you though right

**VICTIM-2:** I haven't slept for nothing ..

**FACEBOOK ACCOUNT USER:** Why

**VICTIM-2:** The \$600 , what Ima tell my dad yo ..

\* \* \*

**VICTIM-2:** Can I get my email back ?

14. I have reviewed the toll records for Victim-2's phone number from November 25, 2015 to November 26, 2015, from which I have learned, among other things, that Victim-2 received 21 calls from the ACOSTA Cellphone Number during this period.

VICTIM-3

15. In February 2016, FBI agents interviewed a 14-year-old victim ("Victim-3") of the FACEBOOK ACCOUNT USER. From my conversations with those FBI agents and my review of reports, I have learned that Victim-3 stated the following, in sum and substance, and among other things:

a. In or about August 2015, Victim-3 received a Facebook message from the FACEBOOK ACCOUNT USER (using the user name "Anayeli Flores") offering her a job. Victim-3 said that she provided her email address to THE FACEBOOK ACCOUNT USER and, after a brief exchange, Victim-3 stopped receiving messages from THE FACEBOOK ACCOUNT USER.

b. Victim-3 received a friend request from the FACEBOOK ACCOUNT USER (using the user name "Miguel Santana") on Facebook, some time close to her fourteenth birthday in November 2015. Victim-3 accepted the friend request and began to communicate with the FACEBOOK ACCOUNT USER. Victim-3 said that she and the FACEBOOK ACCOUNT USER began communicating via Facebook Messenger and the video chat function on Facebook.

c. The FACEBOOK ACCOUNT USER and Victim-3 began what appeared (to Victim-3) to be an online relationship, and the FACEBOOK ACCOUNT USER told Victim-3 that he loved her. During one of their chats, the FACEBOOK ACCOUNT USER asked Victim-3 how old she was, to which Victim-3 replied that she was 14 years old. The FACEBOOK ACCOUNT USER told Victim-3 that he was 16 years old.<sup>5</sup> During their video chats, the FACEBOOK ACCOUNT USER had Victim-3 take off all of her clothes and pose naked. The FACEBOOK ACCOUNT USER also asked Victim-3 to masturbate while they were on video chat. The FACEBOOK ACCOUNT USER had Victim-3 masturbate more than ten times, but she could not remember exactly how many times. Victim-3 never saw the FACEBOOK ACCOUNT USER during their chats; the FACEBOOK ACCOUNT USER told her his camera was broken. Victim-3 said that she would go into the bathroom to get naked and masturbate for the FACEBOOK ACCOUNT USER.

d. I have reviewed the Facebook chats between the FACEBOOK ACCOUNT USER and Victim-3, from approximately August 2015 through approximately November 2015, and Victim-3 confirmed

---

<sup>5</sup> Based on my review of, among other things, criminal history records, I have learned that KELVIN ACOSTA, the defendant, is approximately 27 years old.



that they are the chats between her and the FACEBOOK ACCOUNT USER. Excerpts of these chats include the following:

**FACEBOOK ACCOUNT USER:** u want a barnes and noble job \$17 an hour as a cashier i can hook u up

**VICTIM-3:** Umm Sure

**FACEBOOK ACCOUNT USER:** whats your email and number am send u the info

\* \* \*

**VICTIM-3:** (Victim-3 provides a gmail.com email address)

\* \* \*

**FACEBOOK ACCOUNT USER:** How was your thanksgiving

**VICTIM-3:** I didn't celebrate hbu

**FACEBOOK ACCOUNT USER:** It was okay how old r u

**VICTIM-3:** 14

**FACEBOOK ACCOUNT USER:** I'm 16 r u single

**VICTIM-3:** Yea

**FACEBOOK ACCOUNT USER:** I'm Dominican and u

**VICTIM-3:** (Victim-3 provides her ethnicity)

**FACEBOOK ACCOUNT USER:** R u in ny

**VICTIM-3:** Yea why

**FACEBOOK ACCOUNT USER:** Just asking I live in the Bronx what's your number so we can talk on the phone ;)

**VICTIM-3:** Call me on phone

**FACEBOOK ACCOUNT USER:** On Facebook messenger

**VICTIM-2:** Yea

**FACEBOOK ACCOUNT USER:** Okay in five minutes

\* \* \*

**VICTIM-3:** Goodnight babe i love you

**FACEBOOK ACCOUNT USER:** I love you too

\* \* \*

**VICTIM-3:** My pussy

\* \* \*

**VICTIM-3:** U serious i thought u loved me

**FACEBOOK ACCOUNT USER:** I'm block u

**VICTIM-3:** Why

**VICTIM-3:** Please don't

**VICTIM-3:** I said I knew u were just usijg me

**VICTIM-3:** Using

**VICTIM-3:** To show you my body

VICTIM-4

16. An NYPD Detective ran a database check for the ACOSTA Cellphone Number, which revealed that a complaint had been filed with the NYPD in approximately December 2013 by a 19-year old female ("Victim-4") against the user of the ACOSTA Cellphone Number. I have reviewed a report of an interview of Victim-4 conducted by an NYPD Detective, from which I have learned the following, among other things:

a. Victim-4 was contacted on Facebook by an individual purporting to be a friend of hers. This friend requested a video of Victim-4 singing as well as Victim-4's email address and password, which Victim-4 provided. The FACEBOOK ACCOUNT USER then informed Victim-4 that he had hacked the Facebook account belonging to Victim-4's friend, and that he had taken control of Victim-4's email account and obtained approximately twelve nude photographs of Victim-4 and a sexually explicit video depicting Victim-4 and her boyfriend. The

FACEBOOK ACCOUNT USER then threatened to send the nude photographs and video to Victim-4's friends and family.

b. The FACEBOOK ACCOUNT USER asked for Victim-4's phone number, which she provided. Victim-4 then received a text message from the ACOSTA Cellphone Number which informed Victim-4 that, in addition to taking over her email account, the FACEBOOK ACCOUNT USER had also taken over Victim-4's Facebook account. The FACEBOOK ACCOUNT USER again threatened to send Victim-4's photographs and video to her friends and family unless Victim-4 took new sexually explicit photographs of herself and sent them to the FACEBOOK ACCOUNT USER.

c. At the direction of the FACEBOOK ACCOUNT USER, Victim-4 sent him a photograph depicting her vagina.

d. Victim-4 communicated with the FACEBOOK ACCOUNT USER for approximately the next eleven days, during which time Victim-4 tried to become friendly with the FACEBOOK ACCOUNT USER so that she could regain control of her accounts. After some time, the FACEBOOK ACCOUNT USER told Victim-4 that his real name was "Kelvin Acosta," and then he gave Victim-4 control of her accounts.

#### THE ACOSTA FACEBOOK ACCOUNT

17. In addition to the FACEBOOK ACCOUNT, the NYPD also identified, and subsequently obtained a search warrant for, the contents of the Facebook account with the user name "Kelvin Acosta" (the "ACOSTA FACEBOOK ACCOUNT"). I and other law enforcement officers have reviewed the contents of the ACOSTA FACEBOOK ACCOUNT, from which I have learned, among other things, the following:

a. Some activity of the ACOSTA FACEBOOK ACCOUNT appears to be similar to that of the FACEBOOK ACCOUNT. That is, the user of the ACOSTA FACEBOOK ACCOUNT attempts to solicit other individuals, including minors, to send him sexually explicit photographs.

b. The user of the ACOSTA FACEBOOK ACCOUNT provided the phone number of the ACOSTA Cellphone Number to at least 25 individuals.

c. In conversations with others, user of the ACOSTA FACEBOOK ACCOUNT asks some individuals whether they have the

social media application "ooVoo," and provides his ooVoo account name, "newyorknicekid."<sup>6</sup>

d. The IP logs associated with both the FACEBOOK ACCOUNT and the ACOSTA FACEBOOK ACCOUNT contain several of the same IP addresses, indicating both accounts were active from the same physical location and/or using the same "hot spot" or cellular network.

18. Based on my training and experience, it is my understanding that Facebook's servers are not located in the State of New York.

#### THE SEARCH AND ACOSTA'S CONFESSION

19. On or about March 29, 2016, I and other law enforcement agents executed a search warrant authorized by this Court (the "Search Warrant") of particular rooms at an apartment in the Bronx, New York (the "Subject Premises"). The Search Warrant authorized the search and seizure of, among other things, computers found at the Subject Premises. As a result of the search of the Subject Premises, I have learned the following, among other things:

a. KELVIN ACOSTA, the defendant, was present in the Subject Premises, a three-bedroom basement apartment, when agents arrived to execute the Search Warrant.

b. After being advised of his *Miranda* rights, ACOSTA agreed to speak with law enforcement agents and said, in substance and in part, that:

i. ACOSTA has been hacking and extorting girls and young women for years.

ii. ACOSTA targets girls and young women between the ages of thirteen and twenty-five.

iii. ACOSTA often uses the Barnes and Noble ruse, but sometimes tells his victims that he loves them.

iv. ACOSTA attempts to hack several people per night; he is able to hack approximately one account per night.

---

<sup>6</sup> According to records provided by ooVoo, which I have reviewed, the subscriber of the "newyorknicekid" account is "kelvinacosta."

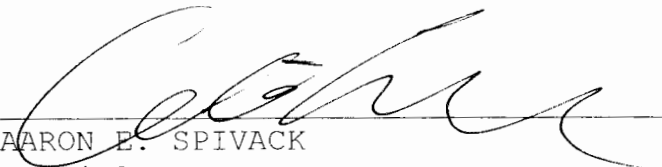
v. ACOSTA exploited approximately fifty accounts belonging to minors, each of which had nude photographs or sexually explicit videos. He viewed these images and videos, and masturbated to them. Sometimes, he downloaded this material, but then deleted it.

vi. ACOSTA convinced between ten and twenty minors to produce child pornography. When he video chatted with minors who produced child pornography for him, he masturbated.

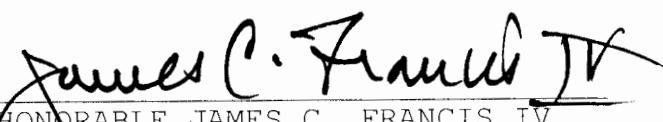
vii. ACOSTA extorted at least three victims for money, one of whom was a minor.

viii. ACOSTA attempted to extort a minor victim in Reading, Pennsylvania.

WHEREFORE, the deponent respectfully requests that KELVIN ACOSTA, the defendant, be imprisoned or bailed, as the case may be.

  
AARON E. SPIVACK  
Special Agent  
Federal Bureau of Investigation

Sworn to before me this  
29th day of March, 2016

  
HONORABLE JAMES C. FRANCIS IV  
United States Magistrate Judge  
Southern District of New York