

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

24 MAG 2422

UNITED STATES OF AMERICA

v.

JUSTIN HEATH SMITH,
a/k/a "Austin Wolf,"

Defendant.

SEALED COMPLAINT

Violations of 18 U.S.C. §§ 2252A and 2

COUNTY OF OFFENSE:
NEW YORK

SOUTHERN DISTRICT OF NEW YORK, ss.:

MATTHEW DERAGON, 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
(Receipt and Distribution of Child Pornography)

1. From at least on or about March 24, 2024 through at least on or about March 28, 2024, in the Southern District of New York and elsewhere, JUSTIN HEATH SMITH, a/k/a "Austin Wolf," the defendant, knowingly received and distributed material that contained child pornography using a means and facility of interstate and foreign commerce and that had been mailed and had been shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, SMITH sent and received from and in New York, New York files containing sexually explicit images of minors via the Telegram messaging application.

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

COUNT TWO
(Possession of Child Pornography)

2. From at least on or about March 24, 2024 through at least on or about April 21, 2024, in the Southern District of New York and elsewhere, JUSTIN HEATH SMITH, a/k/a "Austin Wolf," the defendant, knowingly possessed and accessed 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, SMITH possessed sexually explicit images of minors, including images of prepubescent minors and minors who had not attained 12 years of age, in his residence in New York, New York.

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

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

3. I have been a Special Agent with the FBI for nine years and have been assigned to investigate violations of criminal law relating to the sexual exploitation of children.

4. I have been personally involved in the investigation of this matter. I am familiar with the information contained in this Complaint based on my participation in the investigation, my review of documents, my conversations with other law enforcement officers, and my training and experience. Because this Complaint is being submitted for the limited purpose of establishing probable cause to arrest the defendant, I have not included the details of every aspect of the investigation. Where actions, conversations, and statements of others are related herein, they are related in substance and in part, except where otherwise indicated.

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

a. The term “minor,” as used herein, is 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).

Receipt and Distribution of Child Pornography by the “Anon Anon” Telegram Account

6. Based on my involvement in the investigation, including conversations with other law enforcement officers and review of documents and communications, I have learned the following, in substance and in part:

a. In or about April 2024, the FBI seized and searched a cellphone (“Phone-1”) belonging to a Telegram user (“Target Telegram User-1”) pursuant to a judicially authorized search warrant.

b. A review of Phone-1 revealed communications between Target Telegram User-1 and a Telegram user with the display name “Anon Anon.” As explained below, I believe that the “Anon Anon” Telegram account was operated by JUSTIN HEATH SMITH, a/k/a “Austin Wolf,” the defendant, and accordingly refer to the “Anon Anon” Telegram account as the “Smith Telegram Account.”

c. The review of Phone-1 further revealed that Target Telegram User-1 and the user of the Smith Telegram Account exchanged approximately 200 videos and images containing child pornography on Telegram between March 24, 2024 and March 28, 2024. These videos depicted children as young as infants.

d. For example, on or about March 24, 2024, the user of the Smith Telegram Account sent Target Telegram User-1 dozens of videos containing child pornography, including a video with the file name “sdpa_gay_niño_de_10_años_atado_y_violado_por_adulto2_1.mp4” which translates, in substance and part, to “sdpa_gay_10-year-old_boy_tied_and_raped_by_adult2_1.mp4.” The video shows a child of approximately 10 years old bound, beaten, and raped by an adult man.

Identification of JUSTIN HEATH SMITH, a/k/a “Austin Wolf”

7. I believe that JUSTIN HEATH SMITH, a/k/a “Austin Wolf,” the defendant, is the user of the Smith Telegram Account. This conclusion is based on the following, which I have learned from my involvement in the investigation, my review of documents and communications, and conversations with other law enforcement officers:

a. *Identification by Target Telegram User-1.* Following his arrest, and after being advised of his *Miranda* rights, Target Telegram User-1 agreed to be interviewed by law enforcement. In that interview, Target Telegram User-1 stated, in substance and part, that the user of the Smith Telegram Account is a porn star who goes by the name “Austin Wolf,” and that the two men had previously met in person. A subsequent review of Phone-1 revealed that the user of the Smith Telegram Account knew Target Telegram User-1’s first name and indicated that the two individuals had met in person, both of which are consistent with Target Telegram User-1’s post-arrest statements. Target Telegram User-1 also provided additional details matching those of JUSTIN HEATH SMITH, a/k/a “Austin Wolf,” the defendant, including his physical description, vocation, and approximate address.

b. *Communications with an FBI Online Covert Employee.* As part of the investigation, Target Telegram User-1 agreed to allow an FBI Online Covert Employee (“FBI Covert Employee-1”) to use Target Telegram User-1’s Telegram account (“Telegram Account-1”). On or about April 18, 2024, FBI Covert Employee-1 and the user of the Smith Telegram Account discussed the latter’s travels. FBI Covert Employee-1 wrote jokingly: “The wolf never rests!” adding, “sorry that was corny.” The user of the Smith Telegram Account applied a winky-face emoji to the first message, suggesting that he understood the joke, consistent with Target Telegram User-1’s statement that the user of the Smith Telegram Account goes by the name “Austin Wolf.”

c. *Travel.* On or about April 16, 2024, the user of the Smith Telegram Account wrote to FBI Covert Employee-1 (who was operating Telegram Account-1) that he was traveling in the Caribbean for work and would “be back” on or about April 21, 2024. Based on my review of records maintained by United States Customs and Border Protection, I know that SMITH departed from New York to St. Maarten on or about April 14, 2024 and returned to New York from St. Maarten on the evening of April 20, 2024, consistent with the statement by the user of the Smith Telegram Account on April 16 that he was traveling in the Caribbean and would “be back” on April 21.

d. *Physical observation of SMITH’s phone.* Based on the above-mentioned interview with Target Telegram User-1 and my review of a law enforcement database, I know that SMITH lives in an apartment in Manhattan (the “Smith Apartment”). Based on my review of records from a telecommunications company, I also know that SMITH uses a cellphone (the “Smith Cellphone”) that is subscribed to a “Justin H Smith” who lives at the Smith Apartment. On or about April 21, 2024, law enforcement searched the Smith Apartment pursuant to a judicially authorized search warrant. Smith and his live-in partner were present during the execution of the search warrant. During that search, the Smith Cellphone was seized pursuant to the above-mentioned warrant. After the Smith Cellphone was taken into FBI custody, an FBI employee sent a message from Telegram Account-1 to the Smith Telegram Account. Shortly thereafter, a pop-

up notification appeared on the Smith Cellphone, indicating that it had received a message from Telegram Account-1, thus confirming that SMITH was the user of the Smith Telegram Account.

8. Additionally, there is probable cause to believe that JUSTIN HEATH SMITH, a/k/a “Austin Wolf,” the defendant, was in the Southern District of New York when he sent and received child pornography. Specifically, I have reviewed historical cell-site data for the Smith Cellphone which was provided by a telecommunications company pursuant to a judicially authorized search warrant. That data indicates that SMITH’s phone was near cell towers in the Southern District of New York throughout the day of March 24, 2024. On that day, SMITH and Target Telegram User-1 exchanged more than 100 videos of child pornography.

Discovery of Additional Child Pornography

9. Based on my involvement in the investigation, including conversations with other law enforcement officers and review of documents, I know that Target Telegram User-1 stated in his post-arrest interview that SMITH kept child pornography in his computer room at the Smith Apartment. I also know that, during the execution of the search warrant for the Smith Apartment, law enforcement recovered an SD card from SMITH’s computer room, and that the SD card was later discovered to contain approximately 200 videos depicting child pornography. The SD card also contained other images showing SMITH.

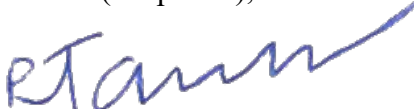
Conclusion

10. Accordingly, there is probable cause that JUSTIN HEATH SMITH, a/k/a “Austin Wolf,” the defendant, possessed, distributed, and received multiple videos containing child pornography, including (i) exchanging hundreds of videos and images with Target Telegram User-1 between March 24, 2024 and March 28, 2024 and (ii) possessing hundreds of videos of child pornography in his Manhattan apartment.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of JUSTIN HEATH SMITH, a/k/a “Austin Wolf,” the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

s/ Mathew Deragon, by the Court with permission
Matthew Deragon
Special Agent
Federal Bureau of Investigation

Sworn to me through the transmission of this Complaint by reliable electronic means (telephone), this 26th day of June, 2024.



THE HONORABLE ROBYN F. TARNOFSKY
United States Magistrate Judge
Southern District of New York