

ORIGINAL

Approved: Sara Pomerantz
LARA POMERANTZ
Assistant United States Attorney

Before: THE HONORABLE GABRIEL W. GORENSTEIN
United States Magistrate Judge
Southern District of New York

17 MAG 1158

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UNITED STATES OF AMERICA

- v. -

ALFRED PABON,

Defendant.

:
: COMPLAINT
:
: Violations of 18 U.S.C.
: §§ 2252A(a)(2)(B),
: (a)(5)(B), (b)(1),
: (b)(2) and 2
:
: COUNTY OF OFFENSE:
: BRONX

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SOUTHERN DISTRICT OF NEW YORK, ss.:

JAMES C. KRAUSE, being duly sworn, deposes and says that he is a Special Agent with the Department of Homeland Security, Homeland Security Investigations ("HSI") and charges as follows:

COUNT ONE

(Receipt and Distribution of Child Pornography)

1. From at least in or about November 2015, up to and including at least in or about January 2017, in the Southern District of New York and elsewhere, ALFRED PABON, 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, PABON used a cellphone to receive and distribute images containing child pornography over the Internet while in the Bronx, New York.

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

COUNT TWO
(Possession of Child Pornography)

2. From at least in or about November 2015, up to and including at least in or about January 2017, in the Southern District of New York and elsewhere, ALFRED PABON, 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 containing 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, PABON possessed images of child pornography, including images of prepubescent minors, on his cellphone while in the Bronx, 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 as follows:

3. I have been a Special Agent with HSI since 2008, and I have been assigned to investigate violations of criminal law relating to the sexual exploitation of children, in violation of Title 18, United States Code, Section 2252A, among other offenses.

4. I have been personally involved in the investigation of this matter, and I am familiar with the information contained in this Complaint based on my own personal participation in the investigation, my review of documents, conversations I have had with other law enforcement officers about this matter, my training and experience, and numerous discussions I have had with other law enforcement personnel concerning the creation, distribution, and proliferation of child pornography. 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.

Definitions

5. 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).

Overview of Kik

6. This investigation involves an Internet-based messaging service called "Kik Messenger" ("Kik"). Based on my participation in this investigation, my review of documents, and my conversations with other law enforcement officers, I have learned the following, in sum and substance, regarding Kik:

a. Kik is a free, instant messaging application for mobile devices, developed by Kik Interactive and is available on various mobile operating systems. Kik uses a smartphone's data plan or Wi-Fi to transmit and receive messages, photographs, videos, mobile webpages and other content after a user registers a username.

b. Kik users are identified by their individual usernames. A username is a unique identifier that is created by the user and assigned to the user's account. The username cannot be changed after the creation of the account.

c. Individuals with a Kik account can also attach a profile picture which can be observed by other Kik accountholders.

PABON's Online Communications

7. Based on my conversations with an HSI Special Agent working in an undercover capacity ("UC-1"), I have learned that UC-1 used an undercover Kik account to monitor public Kik chat groups being used to share child pornography. UC-1 identified one such specific chat group ("Chat Group-1"). UC-1 became a member of Chat Group-1 in or about late 2015 and observed that Chat Group-1 was used almost exclusively to trade child

pornography, discuss child pornography, and/or discuss engaging in sexual activity with minors.

8. On or about November 16, 2015, an individual who was later identified as ALFRED PABON,¹ the defendant, *see infra* ¶ 15(a), using a particular Kik username (the "Pabon Account"), posted the comment "Nice" and/or "Nice guys" several times in response to images or videos containing child pornography that were posted into Chat Group-1 by other users. On or about November 16, 2015, PABON also posted or uploaded into Chat Group-1 seven images (the "Images"). Some of the Images depict children, who appear to be prepubescent minors, posed in sexually provocative manners, many of which display a lewd and lascivious display of the genitals, consistent with the depiction of child pornography. Examples of the Images posted or uploaded by PABON are described as follows:

a. One image ("Image-1") depicts a girl who appears to be a prepubescent minor lying nude on a bed. The girl's pubic area is the primary focal point of Image-1. One of the girl's ankles is bound with rope.

b. One image ("Image-2") depicts a girl who appears to be a prepubescent minor posing nude in a bathtub. The girl is holding her body above the water, exposing her chest and pubic area to the camera.

9. On or about December 16, 2015, UC-1 posted the following message into Chat Group-1: "I can arrange trips to Mexico for dates [winking emoji]. PM [private message] me if interested. . . . Must post on entry to show legit or I won't reply." On or about December 17, 2015, the Pabon Account sent UC-1 a private message chat request, which UC-1 accepted. Between on or about December 17, 2015 and on or about December 22, 2015, the Pabon Account and UC-1 exchanged messages in a private message chat on Kik. During this exchange, which I reviewed, the following occurred in substance and in part:

a. PABON asked UC-1 how a trip to Mexico would work. UC-1 informed PABON that he knew people who could "arrange

¹ Based on my participation in this investigation, my review of certain business records and documents, and my conversations with others, I have learned ALFRED PABON, the defendant, works as an Emergency Medical Technician for the Fire Department of the City of New York.

things" and asked PABON what he was looking for. PABON replied, "something teenish."

b. UC-1 asked PABON to post an example of what he was looking for.

c. PABON posted an image of two girls, who appear to be prepubescent minors, posing nude on a bed. One of the girls is pushing open the other girls' legs to expose her pubic area to the camera.

d. UC-1 asked PABON if he was "serious about making the trip or just curious." PABON replied, "Curious . . . maybe for march or april . . . some age close to [certain minor girls'] ages." PABON stated that the girls to whom he was referring were under eighteen years old and posted an image of the purported minor girls, who were clothed and appeared to be taking a "selfie."

e. PABON asked UC-1 about the approximate cost of the trip to Mexico. UC-1 explained, in sum and substance, that the cost depended on what PABON wanted including, for example, age, number of girls, what he wanted to do, and the length of time. PABON responded, "So let's say 13 year old. Everything and for a couple of hours." When asked by UC-1 about any other traits PABON would like, PABON responded, "Oh shaved, decent tits. . . . Im assuming everything is done with protection."

f. UC-1 subsequently informed PABON that a "few hours with a 13 year old girl with sex will run about \$250." PABON replied, "Not bad" and asked, "Any pics of the girls they have available?" UC-1 later messaged PABON that he was working on getting PABON a photograph. PABON did not respond to this message from UC-1.

10. Based on my conversations with a second HSI Special Agent working in an undercover capacity ("UC-2"), I learned that UC-2 used an undercover Kik account to monitor public Kik chat groups being used to share child pornography. UC-2 identified one such specific chat group ("Chat Group-2"). UC-2 became a member of Chat Group-2 in or about summer 2016 and observed that Chat Group-2 is used almost exclusively to trade child pornography, discuss child pornography, and/or discuss engaging in sexual activity with minors.

11. On or about August 21, 2016, the Pabon Account posted into Chat Group-2 three images, one of which depicts children who, based on my training, experience, and conversations with

UC-2, appear to be minors posed in sexually provocative manners, which display a lewd and lascivious display of the genitals, consistent with the depiction of child pornography. One of the images posted by PABON depicts a boy who appears to be a pubescent minor and a girl who appears to be a prepubescent minor. The boy is touching the girl's crotch and his own crotch while they are kissing.

12. On or about September 2, 2016, the Pabon Account posted a Dropbox link (the "Dropbox Link") to Chat Group-2. UC-2 downloaded approximately 33 videos from the Dropbox Link. I have reviewed the videos UC-2 downloaded from the Dropbox Link, the majority of which contain child pornography. For example, one video depicts a girl who appears to be a prepubescent minor masturbating. Another video depicts a girl who appears to be a pubescent minor performing oral sex on a girl who appears to be a prepubescent minor.

PABON's Admissions

13. On or about February 14, 2017, I and other law enforcement agents executed a court-authorized search warrant (the "Search Warrant") at a certain physical address in the Bronx, New York where ALFRED PABON, the defendant, resides (the "Subject Premises"). The Search Warrant authorized the search and seizure of, among other things, any computers, hard drives, phones, and compact discs found at the Subject Premises. Based on my training and experience, individuals who access child pornography on the Internet often do so from their residences.

14. ALFRED PABON, the defendant, was present in the Subject Premises when agents arrived to execute the Search Warrant.

15. On or about February 14, 2017, at the Subject Premises, I and another HSI agent conducted an interview of ALRED PABON, the defendant. At the beginning of the interview, PABON was read his *Miranda* rights, which he waived orally and by executing a *Miranda* waiver form. After waiving his *Miranda* rights, PABON stated, in substance and in part, that:

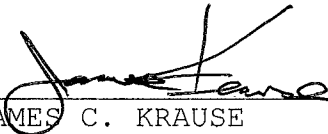
a. PABON is the user of the Pabon Account, see *supra* ¶ 8, and PABON personally exchanged in the above-described interactions with UC-1 and UC-2, see *supra* ¶¶ 8-12.

b. PABON acknowledged that the Kik profile photograph associated with the Pabon Account (the "Kik Photograph") is a photograph of him.²

c. PABON copies images and videos containing child pornography on Kik and then forwards or reposts such images and videos on chat rooms in Kik.

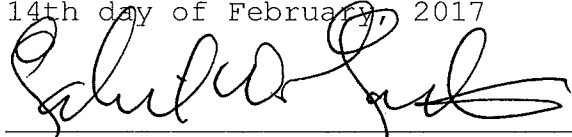
d. PABON has copied and reposted images containing child pornography on Kik within the last month.

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



JAMES C. KRAUSE
Special Agent
Homeland Security Investigations

Sworn to before me this
14th day of February, 2017



THE HONORABLE GABRIEL W. GORENSTEIN
United States Magistrate Judge
Southern District of New York

² Based on my comparison of the Kik Photograph with photographs that appear on PABON's social media accounts, the Kik Photograph appears to depict PABON.