

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

AUG 24 2012

for the  
District of New Mexico

MATTHEW J. DYKMAN  
CLERK

United States of America )

v. )

Richard J. Dates,  
Year of Birth: 1945  
SSN: xxx-xx-1933 )

Case No.

12mj 2013

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 August 23, 2009 - August 23, 2012 in the county of McKinley in the  
Judicial District of New Mexico, the defendant(s) violated:

| <i>Code Section</i>                                    | <i>Offense Description</i>   |
|--|--|
| Title 18, United States Code,<br>Section 2252(a)(4)(B) | Possession of Visual Depictions of Minors Engaged in Sexually Explicit Conduct |

This criminal complaint is based on these facts:

During a period ranging from approximately August 23, 2012 - August 23, 2012 Richard J. Dates possessed visual depictions of minors engaged in sexually explicit conduct in violation of Title 18, United States Code, Sections 2252(a)(4)(B).


Continued on the attached sheet.

  
Complainant's signature

Alfred J. Allen, Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: AUG 24 2012



LORENZO F. GARCIA  
United States Magistrate Judge

City and state: Albuquerque, New Mexico

Printed name and title

**ATTACHMENT A**

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Alfred J. Allen, being duly sworn, hereby declare and state as follows:

Your Affiant is a Special Agent (SA) of The Department of Homeland Security, U.S. Immigration & Customs Enforcement (ICE), Homeland Security Investigations (HSI), and have been employed by ICE as such since March 15, 2010. Prior to Affiant's position with ICE, Affiant was a Specialist with the Louisiana Department of Corrections Division of Probation and Parole from June of 2002 to February of 2010. During the last three (3) years of employment with Probation and Parole, your Affiant was responsible for the supervision of convicted Sex Offenders in the communities of Washington and St. Tammany Parishes in the State of Louisiana. Your Affiant is currently assigned to the Resident Agent in Charge, Albuquerque, where it is your Affiant's primary duty to investigate individuals involved in the exploitation of minors including violations of Title 18, United States Code, Section 2252.

Your Affiant successfully completed eleven weeks of Criminal Investigator Training at the Federal Law Enforcement Training Center (FLETC). In addition, your Affiant completed twelve weeks of Special Agent Training with United States Immigration and Customs Service also at FLETC. Your Affiant has received various training in investigating and enforcing federal child pornography and exploitation laws in which computers and computer related media are used as the means for receiving, transmitting, distributing, transporting, storing, and possessing images of minors engaged in sexually explicit conduct (hereafter referred to as "child pornography"). Since September 2010, your Affiant has been a part of the Albuquerque Internet Crimes Against Children (ICAC) task force in Albuquerque, New Mexico. The Albuquerque ICAC is a cooperative effort of members from the New Mexico Attorney General's Office (AGO), the ICE Albuquerque office and other law enforcement agencies, whose purpose is to investigate criminal violations of both federal and state child pornography and child exploitation laws. Your Affiant has worked several child pornography and child exploitation investigations and has been trained in the investigation of computer related child exploitation and child pornography cases, including Title 18, United States Code, Section 2252. In addition, Your Affiant has participated in searches of premises, and assisted in the gathering of evidence by means of a search warrant. Your Affiant has had the opportunity to observe and review numerous examples of child pornography in many forms of media including video and photographs on computers and computer-related media.

The following information relating to the investigation of Richard J. Dates is personally known to me based on my own investigation, training and experience, including my review of investigative reports, or has been related to me by other individuals, including law enforcement officers involved in the investigation whom your Affiant believes to be reliable. Based on the following information, there is probable cause to believe that Dates possessed visual depictions of minors engaged in sexually explicit conduct

Handwritten signature and initials in the bottom right corner of the page.

(hereafter "child pornography") in violation of Title 18, United States Code, Sections 2252(a)(4)(B).

### Applicable Statutes

According to 18 U.S.C. Section 2252(a)(4)(B), it is a federal crime for a person who "knowingly possesses, or knowingly accesses with intent to view...[any] matter which contain any visual depiction [of minors engaged in sexually explicit conduct] that has been mailed, or has been shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported by any means including by computer...."

### Summary of Investigation

Your Affiant learned from Homeland Security Investigations (hereafter HSI) Special Agent Gregory Squire in Boston, Massachusetts, that a child exploitation investigation had been conducted and identified several suspects distributing child pornography images via the Internet. One of the individuals identified was Michael Arnett of Kansas City, Missouri.

According to Special Agent Squire, on approximately May 23, 2012, Michael ARNETT was arrested by HSI Kansas City for the production of child pornography. ARNETT's arrest was subsequent to a Federal search warrant that was executed at his residence on approximately May 15, 2012. During the execution of the search warrant, HSI Kansas City Agents seized multiple pieces of media to include computers. HSI Kansas City provided HSI Boston with copies of the seized materials and HSI Boston began to conduct forensic analysis of these materials. Through the forensic examination of ARNETT's computers by HSI Boston Agents, it was discovered that ARNETT had been communicating and exchanging child pornography materials with other individuals using online chat programs. One of the chat programs ARNETT used was the free and publically available program Skype. ARNETT was using Skype to discuss the abuse of children and to send and receive images and videos of children. HSI Boston Agents recovered hundreds of lines of chat and multiple file transfers between ARNETT and others. One of the individuals that ARNETT had conducted file transfers with was using the Skype screen name: walrus.blackhawk. Through further forensic analysis, the following registration information about the screen name walrus.blackhawk was obtained from ARNETT's computer:

Skype Name: walrus.blackhawk

Display Name: walrus Blackhawk

Full Name: walrus Blackhawk

Birthday: 19450129

Handwritten signature and date, possibly "GJK 8/12".

City: Albuquerque, NM

Country: us

Mobile Phone: +1505 285 7276

According to Special Agent Squire, on approximately July 25, 2012, HSI Boston Agents sent a Grand Jury subpoena to Skype Communications for registration information for the screen name walrus.blackhawk. On approximately July 25, 2012, Skype Communications provided the following information:

Username: walrus.blackhawk

Account Creation Time: 2010-08-28 05:57:52UTC

Account Creation IP: 74.42.209.127

Account Creation IP Country: United States

Current Email Address: walrusblackhawk@hotmail.com

According to Special Agent Squire, on approximately July 26, 2012, a Grand Jury subpoena was sent to Microsoft for registration information for the email walrusblackhawk@hotmail.com. On approximately July 30, 2012, Microsoft provided the following information for walrusblackhawk@hotmail.com:

Login: walrusblackhawk@hotmail.com

First Name: Richard

Last Name: Dates

State: Illinois

Zip: 60007

Country: US

Registered from IP: 38.243.148.21

Date Registered (Pacific): 4/10/2000 1:00:57 PM

Subscriber's Billing Information:

Name: Richard Dates

Email: walrusblackhawk@hotmail.com



Phone: (505) 786-5032

Address: PO Box 1579

6 Golden Eagle Drive

Crownpoint, NM 87313

According to Special Agent Squire, on approximately July 27, 2012 HSI Boston agents, Massachusetts State Police (MSP) and Worcester Police executed a Federal search warrant at the residence of Geoffrey PORTWAY in Worcester, MA. During the search warrant, PORTWAY was found to be in possession of images and videos of child pornography. PORTWAY was subsequently arrested by HSI Boston Agents.

According to Special Agent Squire, a preliminary forensic examination of the computers seized from PORTWAY's residence was conducted by HSI Boston and MSP forensic examiners. Multiple Skype chats logs were discovered, these chats included file transfers between PORTWAY, using the screen name fat\_longpig, and other individuals with an interest in, among other things, the sexual and physical abuse of children. Some of the chats and file transfers discovered were with an individual using the screen name walrus.blackhawk. An excerpt of these chats are as follows:

walrus.blackhawk Sat, 18 Jun 2011 16:41:07 +0000 Got any pics?

fat\_longpig Sat, 18 Jun 2011 16:41:29 +0000 still have tons

walrus.blackhawk Sat, 18 Jun 2011 16:41:41 +0000 I enjoy them.

fat\_longpig Sat, 18 Jun 2011 16:42:22 +0000 categories are naked, shirtless, cleaning/bath, and underwear/swimsuit/diaper. which do you want first?

walrus.blackhawk Sat, 18 Jun 2011 16:42:50 +0000 naked is nice.

fat\_longpig Sat, 18 Jun 2011 16:44:19 +0000 sorry, forgot about hardcore category

walrus.blackhawk Sat, 18 Jun 2011 16:44:58 +0000 ooooooh!

fat\_longpig Sat, 18 Jun 2011 16:45:05 +0000 that one then?

walrus.blackhawk Sat, 18 Jun 2011 16:45:14 +0000 Yes

fat\_longpig Sat, 18 Jun 2011 16:46:00 +0000  
C:\Users\Geoffrey\Pictures\HC\\_211\_1\_.jpg



fat\_longpig Sat, 18 Jun 2011 16:46:07 +0000  
C:\Users\Geoffrey\Pictures\HC\2a58.jpg

fat\_longpig Sat, 18 Jun 2011 16:46:09 +0000  
C:\Users\Geoffrey\Pictures\HC\8c8d.jpg

fat\_longpig Sat, 18 Jun 2011 16:46:09 +0000  
C:\Users\Geoffrey\Pictures\HC\4bdca081feabb2ee2fb24bce1ea4cd1362006  
11060\_full.jpg

fat\_longpig Sat, 18 Jun 2011 16:46:09 +0000  
C:\Users\Geoffrey\Pictures\HC\\_20010.jpg

The first image file, \_211\_1\_.jpg, was transferred during the chat from fat\_longpig to walrus.blackhawk. The image depicts a prepubescent boy with no shirt on performing oral sex on another prepubescent boy who is laying on his back with no shirt on and his pants pulled down to his knees.

The second image file, 2a58.jpg, was transferred during the chat from fat\_longpig to walrus.blackhawk. The image depicts two prepubescent boys laying down naked, one of the boys has his hand on the other boys penis. The focus of the image is on the boy's genitalia.

The third image file, 8c8d.jpg, was transferred during the chate from fat\_longpig to walrus.blackhawk. The image depicts a prepubescent minor lying face down naked on a blue mattress, there is an adult male naked on top of the minor's leg and the adult male is pressing his penis between the minor's buttocks cheeks.

The fourth image file, 4bdca081feabb2ee2fb24bce1ea4cd136200611060\_full.jpg, was transferred during the chat from fat\_longpig to walrus.blackhawk. The image depicts a prepubescent boy who is naked and on top of an adult male. The adult male's erect penis is inside the prepubescent boy's anus.

According to Special Agent Squire, on August 17, 2012, HSI Albuquerque received a collateral request from HSI Boston requesting that an attempt be made to locate Richard DATES in an attempt to further investigate this matter.

On August 21, 2012, HSI Albuquerque conducted open source searches of Richard Dates in New Mexico with a former address of PO Box 1579 Crownpoint, NM 87313 and discovered Dates date of birth as 01/29/1945. A New Mexico Department of Motor vehicle lookup of Richard Dates with the birthdate 01/29/1945 identified his last known address as 609 Kingman Avenue Apartment B in Grants, New Mexico 87020.

On August 23, 2012, HSI Albuquerque agents contacted Richard Dates at his residence located at 609 Kingman Avenue Apartment B, Grants, New Mexico 87020 at approximately 7:00 a.m. Mr. Dates was advised that he was not under arrest and was in



no way obligated to speak and was asked if he would consent to an interview. Mr. Dates agreed to speak with agents and stated the following: Dates has email accounts with Yahoo, Gmail and Hotmail using a name related to "Walrus Blackhawk". Dates has a Skype account, but he did not recall the name used for the account. He primarily uses the Skype account to talk to his family. An individual, whom Dates was unable to identify, contacted him via Skype to discuss child pornography. This individual contacted Dates on multiple occasions to discuss child pornography. Dates has viewed images of child pornography on his laptop computer, which is in his residence at 609 Kingman Avenue Apartment B, Grants, New Mexico 87020. He stated that he has deleted all of these images.

On August 23, 2012 a search warrant was executed at 609 Kingman Avenue Apartment B, Grants, New Mexico 87020. Two (2) laptop computers were discovered and forensically previewed by HSI Computer Forensics Agent (CFA) Kyle Craig. CFA Craig performed a forensic preview of an Acer Aspire 5517 Series laptop. The hard drive of the laptop contained at least nine (9) images that CFA Craig believed to be child pornography. This hard drive contained the following images:

Description: A still digital image of a female child, approximately 4 to 5 years old. The female is holding an adult male's penis. The female's tongue is placed on the adult male's penis.

Description: A still digital image of an adolescent male, approximately 12 to 14 years old. The male is completely naked, except for a baseball cap on his head. The male is holding his erect penis in his right hand.

Description: A still digital image of a female child, approximately 5 to 7 years old. The female is straddling the erect penis of an adult male. Semen is dripping from the female's mouth onto the male's penis.

CFA Craig performed a forensic preview of a Hewlett Packard Pavilion DV 6700 laptop. The hard drive of the laptop contained at least seven-hundred (700) images that Craig believed to be child pornography. This hard drive contained the following images:

Description: A still digital image of an adolescent child, approximately 2 to 4 years old. The child is holding an adult male's penis. The child's mouth is placed on the adult male's penis.

Description: A still digital image of an adolescent female, approximately 8 to 11 years old. The female is holding an adult male's penis with her right hand, inserting it into her mouth. The female is inserting what appears to be a pink dildo in her vagina with her left hand.

Description: A still digital image of an adolescent male, approximately 8 to 11 years old. The male is laying on his right side, with his hands and ankles bound together in the front of his body with a rope. The image is cropped so that the male's head is not visible.





On August 23, 2012, Dates waived his Miranda rights and was interviewed by your Affiant and HSI Special Agent Sonny Garcia. During the interview Dates stated that he has lived alone for several years. During that time period, he has viewed, downloaded and saved child pornography. Dates stated that he had used several laptop and desktop computers to download child pornography. Dates further stated he is the only person to use the computers located in his residence. Dates stated he prefers young children between the ages 7 to 20 years of age and is sexually aroused by both boys and girls. Dates stated he would frequently view child pornography in order to masturbate to the images.

Dates stated that he uses email addresses with the name of walrus blackhawk to communicate online and has used the walrus.blackhawk user name to communicate on Skype. Dates stated that he has communicated with people online in several different countries including Turkey in order to trade child pornography.

Dates stated he has discussed fantasized stories with other Skype users regarding a world where young people would be raped, butchered, cooked and served to patrons at a restaurant. Dates stated that he had photo shopped several photos of butchered body parts and sent those photos over his Skype account to various users. Dates stated that he destroyed a hard drive, which contained several images of the child pornography, after speaking with HSI agents on the morning of August 23, 2012.

On August 23, 2012, Dates identified a second residence located in the city of El Moro, NM, also owned by him. The residence consists of a mobile home located within a gated community off Highway 53. The mobile home does not have an address. Dates provided written consent to search the property. HSI special agents searched the property and found approximately forty (40) binders and hardcover books containing images of children, many of which are nude. The property also contained a binder that described how to butcher and strangle children with household items.

On August 23, 2012, Dates was arrested and taken into custody for violating Title 18, United States Code, Sections 2252 (a)(4)(B).

#### **Interstate Nexus**

The hard drive located within Dates' Hewlett Packard Pavilion DV 6700 laptop was produced in the country of Thailand. The hard drive located within Dates' Acer Aspire 5517 Series laptop was produced in the country of Malaysia. Thus, your Affiant believes that because the images were produced using materials which had been mailed, shipped or transported in interstate and foreign commerce, interstate nexus is satisfied for possession of visual depictions of minors engaged in sexually explicit conduct in violation of 18 USC Section 2252 (a)(4)(B).

Handwritten signature and initials in the bottom right corner of the page.




Finally, use of the Internet constitutes "in or affecting interstate commerce" for the purposes of distributing, receipt and possession of visual depictions of minors engaged in sexually explicit in violation of 18 USC Section 2252 (a)(2) and 2252 (a)(4)(B). See *United States v. Swenson*, 335 Fed. Appx. 751 (10<sup>th</sup> Cir. 2009).

**Conclusion**

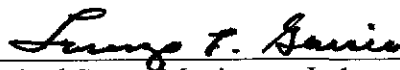
Based upon the foregoing information contained in this affidavit, your Affiant has probable cause to believe that during a period ranging from approximately August 23, 2009 to August 23, 2012 Richard J. Dates possessed visual depictions of minors engaged in sexually explicit conduct in violation of Title 18, United States Code, Sections 2252(a)(4)(B).

Prosecution of Dates was approved by Assistant United States Attorney J. Tierney. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Alfred J. Allen  
Special Agent  
Department of Homeland Security  
Homeland Security Investigations

Subscribed and sworn before me this 8<sup>th</sup> day of March 2012 at 8:57 hours.

  
\_\_\_\_\_  
United States Magistrate Judge