

16-2018-01-30

AFFIDAVIT FOR EVIDENTIARY SEARCH WARRANT

STATE OF TEXAS) (

COUNTY OF MONTAGUE) (

The undersigned Affiant, being a Peace Officer under the laws of the State of Texas and being duly sworn, on oath makes the following statements and accusations:

1. It is the belief of Affiant, and he hereby charges and accuses that:
Ricky Dale Howard, defendant, committed the offense of Possession or Promotion of Child Pornography on or about the 30th day of March, 2015 in the County of Montague and the State of Texas by then and there intentionally and knowingly possess visual material that depicted, and which the defendant knew visually depicted a child who was younger than 18 years of age at the time the image of the child was made, engaging in sexual conduct, to-wit: lewd exhibition of the genitals.

2. There is in Montague County, Texas, a certain place and premises described and located as follows:
A Gateway brand computer, type is desktop, serial number PTGA102028942058723000, which is under the control of your affiant, Chris Hughes, and may be found where it is housed as evidence and located at 100 Grand Street, Montague County Sheriff's Office, Montague, Texas.

3. There is at said place and premises property and items constituting evidence that would tend to show that the said Ricky Dale Howard, a white male with a date of birth of 08/04/1961, committed the offense of Possession or Promotion of Child Pornography, These items and property being more specifically described as follows:
 - A) Computer graphic files and visual image depictions that portray what appears to be children engaging in sexual conduct.

 - B) Computer hardware that can collect, analyze, create, display, convert, store, conceal, or transmit electronic, magnetic, optical, or similar computer impulses or data. This hardware includes (but is not limited to) any data processing devices, internal and peripheral storage devices which can be utilized for viewing, receiving, transmitting, sending, or storing any type of digital data including photographs. Any devised mechanisms, parts, or components found within the computer that can be used for storage or retention of any digital data.

 - C) Computer software that may contain digital information which can be interpreted by a computer and any of its related components which may be stored in

electronic, magnetic, optical, or other digital form. This may commonly include programs to run operating systems, utilities, compilers, interpreters, and communication programs. Any electronically stored information which explains or illustrates how to configure or use the computer hardware, software, or other related items.

4. Affiant has probable cause for said belief by reason of the following facts:
Your Affiant is Chris Hughes, a licensed Peace Officer under the laws of the State of Texas, and employed as the Chief Deputy for the Montague County Sheriff's Office, located in Montague County, Texas.

Your Affiant is aware of a Federal investigation conducted by the FBI in 2001 concerning Bank Fraud allegations against Ricky Dale Howard while he was employed as a loan officer at the Legend Bank, Nocona Branch. This investigation resulted in FBI Special Agent David Burns learning of at least five victims alleging the offense of Sexual Assault of a Child against each of them on multiple occasions by Ricky Dale Howard. These allegations were each connected to Howard as a bank loan officer or access he gained to the victims through a customer's children due to his position at the bank. Each victim independently told details of sexual molestation by Ricky Howard during the time they were in their teens and when they began working for him on his ranch. Ultimately, SA Burns filed his financial case with the Federal Prosecutor's Office. Ricky Dale Howard plead guilty and was sentenced to serve a term of 46 months in a Federal Prison. The presiding Federal Judge also required Howard, as part of his Federal Probation terms, to attend approximately two years of sex offender counseling upon his release from the Federal Bureau of Prisons.

In April of 2015 your Affiant learned of a missing person case in Nocona, Texas, which involved a missing teenage boy. Your Affiant began assisting the Nocona Police Department and learned the missing boy, who is identified as Caleb Diehl, had been working for Ricky Howard on his ranch. It was determined through phone records that Howard had communication with the missing boy the same afternoon he disappeared. Caleb Diehl's phone then ceased to function at that time and Howard later said he found a broken phone in his shop that day and threw it away. Howard had loaned Caleb Diehl a pickup to drive a couple of days prior to his disappearance. The pickup showed up mysteriously in Ricky Howard's shop a few days later and to date, the boy has never been seen again. Investigators searched multiple locations and found a "burn pit" on one of the properties belonging to Ricky Howard. Among the items burned were another cell phone and two desktop computers. Howard said he was just cleaning up around the place and burned items that were no longer being used. He said he believed the two burned computers had belonged to his elderly and deceased parents. Ultimately, Ricky Howard consented to a polygraph exam concerning his involvement in the disappearance of Caleb Diehl. The test was conducted by a qualified technician working for the FBI. Ricky Howard failed the exam questions concerning his involvement in the disappearance of Caleb Diehl. The investigators exhausted all leads and ultimately the case grew cold.

In September of 2017 your Affiant requested Kevin Benton assist him with reviewing the missing person case concerning Caleb Diehl. Benton is currently a licensed Peace Officer for the State of Texas and is dual commissioned by the Montague County Sheriff's Office and 97th District Attorney's Office. Your Affiant believes it may be beneficial to the investigation to start at the beginning of the case files and re-interview witnesses. Your Affiant also wishes to review all the evidence collected.

On October 25, 2017, your Affiant and Benton met with Karla Howard. Karla is currently the ex-wife of Ricky Dale Howard. She told the details she knew of the missing Diehl boy. During this interview the officers also learned she was in possession of a desktop computer. She stated this computer was set up and functioning while she was married to Ricky Howard and was utilized for several years prior to Caleb Diehl going missing. She further stated this computer would have been in operation on March 30, 2015. She acknowledged the computer was utilized by both her and Ricky. She said after they divorced, she purchased a new laptop and placed the desktop computer in a closet for storage. She stated she had no idea what Ricky may have stored on the computer. Karla Howard signed a consent and allowed your Affiant to take possession of the computer and to allow a search the contents. Your Affiant documented the identifying numbers on said computer and entered it as an evidentiary item in the Montague County Sheriff's Office Evidence Room.

Your Affiant and Benton then learned of the Federal required sex offender counseling for Ricky Howard and were ultimately authorized by a Federal Judge to obtain those records by Grand Jury Subpoena from Psychotherapy Services & Yokefellows. This facility and their staff's profession is the "Assessment and Treatment of Behavioral Disorders."

On November 28, 2017, Kevin Benton and District Attorney's Investigator Chris Hamilton travelled to 301 W. Rosedale Street, Fort Worth, Texas and took possession of the written documents produced by Psychotherapy Services & Yokefellows. The investigators subsequently met with and interviewed Ezio Letite, LPC, LSOTP, on November 28, 2017 and December 19, 2017. Ezio Letite stated he remembered Ricky Dale Howard and had personally conducted counseling with him during the two years of required sessions.

Ezio Letite advised Ricky Howard made multiple admissions regarding the allegations of his previous sexual contact with under aged boys. He said Howard told him he could not discuss the specific details because it could cause him problems criminally and civilly. Howard also told Letite he had never revealed any of these acts to his wife because he knew she would leave him. Letite spoke about the Plethysmograph testing which was conducted on Howard. This is a test designed to measure sexual responsiveness to a variety of stimulus objects concerning gender, age, and sexual activity. He advised that Ricky Howard was a "very clever man" and had attempted to manipulate the test. Letite then showed the investigators the charts in reference to the testing. Letite said there was no doubt in his professional opinion that Howard had sexual interest in underage males. Letite stated Howard also revealed his sexual interest in his 14 year old nephew. During

individual sessions Howard spoke about “wrestling” with his nephew and becoming sexually aroused. He said he had vivid dreams about the boy masturbating. He revealed the dreams were so vivid that he would get up in the night to be sure the boy was not sleeping their house. Howard said he would masturbate in the shower while basically having sexual fantasies about his young nephew. Letite stated during individual sessions Howard said since he had started treatment he had decreased the amount of pornography he views. Howard advised he was currently only looking at pornography 2 to 3 times per week on the internet. He advised his wife was not aware of his pornography usage. Kevin Benton then informed your Affiant of these facts and information.

5. Based upon your affiant’s experience and training, as well as the experience and training of other law enforcement personnel your affiant has consulted with, who are also involved in this investigation, your affiant believes, based upon the preceding facts and information, Ricky Dale Howard has a sexual interest in underage boys and has committed sexual acts against underage males. Your Affiant also knows it can be common for people involved in sexual acts against children to view and store child pornography. Further, based upon the admissions of Howard concerning his routine viewing of pornography, and the fact that Howard would not tell his wife about said sexual acts against children due to his belief of the outcome and the fact that he would also not tell his wife about his use of pornography, your Affiant believes that unlawful pornography depicting underage males is stored on the said desktop computer described above. Your Affiant also believes the images which may be stored on this laptop computer were protected from destruction in a burn pit due to Howard’s wife having control of said computer.

Your Affiant knows effective searches and seizures of evidence from computers commonly require law enforcement to seize the computer and any of the attached or enclosed components, such as hardware, software, and operating components and then have these items processed by a qualified computer forensic expert in a controlled environment. Your affiant believes this to be true because of the following:

- A) Computer storage devices can store the equivalent of thousands of pages of information or photographs. When users desire to conceal criminal evidence, they often store the information in random order and they may use deceptive file names. Directories and subdirectories that contain these files can also be electronically hidden from normal view.
- B) Special forensic software is required to detect these hidden directories. This requires that searching authorities examine all the stored data to determine whether it is included in the search warrant. This sorting process can take weeks, depending on the volume of the data stored. This would make it impractical to attempt this kind of forensic analysis on site at the time of the search warrant execution. Searching computers for criminal evidence is a

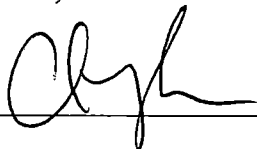
highly technical process requiring expert skill in a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications. The search of a computer is an exacting scientific procedure which is designed to protect the integrity of the evidence and to recover even hidden, erased, compressed, password protected, and/or encrypted files. Since computer evidence is extremely vulnerable to tampering or destruction from both external sources or from the form of an internal "booby trap," the controlled environment of a forensic laboratory is essential to its complete and accurate analysis and retrieval.

Your Affiant believes that the visual images obtained are valued by those individuals interested in child pornography, and persons involved in sending, viewing, and/or receiving child pornography tend to retain said material for extended periods of time.

Therefore, your affiant believes that evidence which would tend to show Ricky Dale Howard committed the offense of Possession or Promotion of Child Pornography, a 3rd degree felony, per Texas Penal Code Section 43.26, are contained or concealed within the computer hardware, software, hard drive, and other computer related operating equipment or components contained within the desktop unit. Your affiant further states that this evidence is being held against the laws of the State of Texas.


Accordingly, affiant wishes to be authorized to examine and search the said Gateway brand, desk top computer, with serial number-PTGA102028942058723000, and the related items detailed above, for the purpose of evidence collection and retention. Said computer and described components will be transported to a location outside of Montague County, Texas, by your Affiant and delivered to a controlled environment provided by law enforcement, for a complete analysis by qualified computer forensic technicians.

WHEREFORE, Affiant asks for issuance of such Evidentiary Search Warrant.



Affiant

SUBSCRIBED AND SWORN to before me by said Affiant on this 30th day of January 2018.



Jack McGaughey, District Judge
Montague County, Texas.

