

**APR 12 2021**

**JAKE CHATTERS**  
**EXECUTIVE OFFICER & CLERK**  
By: *B. Mendez, Deputy*

*B. Mendez*

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2 Placer County District Attorney  
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5 Roseville, CA 95678-6231

6 Tel: (916) 543-8000

7  
8 SUPERIOR COURT OF PLACER COUNTY

9 STATE OF CALIFORNIA

10 --oOo--

11 THE PEOPLE OF THE STATE OF  
12 CALIFORNIA,

13 Plaintiff,

14 vs.

15 PATRICK FRANCIS COONEY,

16 Defendant.

No. 62-148459

PEOPLE'S OPPOSITION TO  
DEFENDANT'S PETITION TO  
TERMINATE PROBATION

PC §1203.1 (AB 1950)

Date: 4/14/2021

Time: 1:30 PM

Dept: 31

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19 **PROCEDURAL HISTORY**

20 On April 19, 2017, the Defendant pleaded no contest to a  
21 felony violation of Penal Code ("PC") §311.11(a). Following his  
22 plea, on August 23, 2017, the Defendant was placed on probation  
23 for a period of 5 years with standard terms and conditions. He  
24 was also ordered to abide by specific sex offender conditions,  
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1 including participating in and completing a Certified Sex  
2 Offender Management Program.

3 **AGGRAVATED FACTS OF THE PRESENT OFFENSE**

4 The criminal acts were discovered as a result of an  
5 undercover operation undertaken by Detective Richard Gray ("Det.  
6 Gray") of the Placer County Sheriff's Office in 2016. The  
7 operation involving the Defendant began on June 16, 2016  
8 utilizing BitTorrent. As described by Det. Gray, BitTorrent is  
9 a publicly available peer to peer sharing network that does not  
10 come standard on computers. When BitTorrent is installed, the  
11 client establishes various settings for the purposes of file  
12 sharing and distribution.  
13

14 As part of the investigation, Detective Gray found an IP  
15 address in Placer County participating in sharing child  
16 pornography on the network. **The shared files accessed by Det.**  
17 **Gray included graphic images of prepubescent girls engaged in**  
18 **sexual acts with adult males.** Detective Gray determined that  
19 the IP address was associated with Wave Broadband in Rocklin. A  
20 search warrant was executed seeking subscriber information for  
21 the IP address which returned to the Defendant, Patrick Cooney.  
22

23 Det. Gray executed search warrants at the Defendant's home  
24 and on his work locker. Electronics were seized from both  
25 locations. As a result of a subsequent forensic examination,  
26 Det. Gray located **over one hundred images of child pornography,**  
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1 **including images of prepubescent females engaged in sexual acts**  
2 **with adult males, including sexual intercourse and oral**  
3 **copulation.**

4 Post Miranda, when questioned about the child pornography,  
5 the Defendant noted that his girlfriend and her two sons (ages 8  
6 and 12) also lived at the residence. His girlfriend was  
7 interviewed and denied accessing or possessing child  
8 pornography. She provided law enforcement with her password and  
9 her children's electronics, none of which appeared to contain  
10 child pornography. Thereafter, the Defendant pleaded no contest  
11 to felony possession of child pornography.  
12

13 **DEFENDANT'S POOR PERFORMANCE ON PROBATION**

14 On May 29, 2018, less than one year into the Defendant's  
15 five year term of probation, the Probation Department filed a  
16 Petition for Revocation of Probation. It alleged that on April  
17 30, 2018, the Defendant was illegally in possession of  
18 ammunition, a shuriken, a stun gun, and a nunchaku. The  
19 Defendant subsequently pled no contest a misdemeanor violation  
20 of PC §30305(a)(1), Possession of Ammunition by a Prohibited  
21 Person. His probation in the present case was revoked and  
22 reinstated as a result of the conviction.  
23

24 Following that revocation, on August 23, 2019, two years to  
25 the day since the Defendant had been placed on probation, the  
26 Probation Department filed another petition, this time  
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1 requesting a modification of the Defendant's terms of probation.  
2 The request was based on a determination that the Defendant was  
3 viewing pornography (in contravention to his sex offender  
4 treatment program) and had been dropping children off at school  
5 in violation of PC §626.81.

6 The Defendant's probation terms were modified to include a  
7 prohibition on access to any websites that contain sexually  
8 explicit content, disclosure of and consent to search of all  
9 electronic accounts, prohibition on the alteration or  
10 destruction of records pertaining to internet use, and  
11 submission to electronic monitoring at the discretion of the  
12 probation officer.  
13

#### 14 OPPOSITION TO TERMINATION OF PROBATION

##### 15 Applicability of AB 1950 to the Present Case

16 It is presumed that AB 1950 applies to the present grant of  
17 probation per *People v. McKenzie* (2020) 9 Cal.5th 40. There the  
18 California Supreme Court observed that a case becomes final only  
19 after it reaches a final disposition in the highest court  
20 authorized to review it. This case has not reached that point.  
21

##### 22 Aggravated Facts and Circumstances

23 As the Court is well aware, possession of child pornography  
24 can include nude displays of minors in provocative poses and/or  
25 minors engaged in simulated sexual acts. Possession of child  
26 pornography can also involve any minor under the age of 18, that  
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1 is to say, images involving a minor as old as 17 years would  
2 also qualify. Knowing possession of a single image violates the  
3 law.

4 While in no way diminishing the seriousness of the offenses  
5 described above, it must be noted that in the present case, the  
6 Defendant possessed **over a hundred images of minors who were**  
7 **well under 18 years of age.** Likewise, the children involved  
8 were not merely posing and the acts were not simulated; **the very**  
9 **young girls involved in this case were actually engaged in the**  
10 **performance of sexual acts with adult males.**

11 In addition to the aggravated facts noted above, the  
12 Defendant is not a model probationer. He has not taken  
13 advantage of the benefits of treatment or supervision. The  
14 Defendant stands convicted of a new offense while on probation  
15 and he continued to view pornography despite his felony  
16 conviction involving pornography and despite recommendations by  
17 his treatment program to the contrary.

18  
19 **CONCLUSION**

20 Prior to the change in the law, public safety could at  
21 least be served by the ability of law enforcement and probation  
22 to monitor the Defendant's activities. The termination of his  
23 probationary term removes this protection, the result of  
24 sweeping legislative changes applied retroactively with very  
25 limited exceptions. The change in law also appears to ignore  
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1 all of the rehabilitative aspects of probation, aspects of  
2 probation that are also critical to public safety: monitoring  
3 and treatment.

4 The facts of this case involve the most serious  
5 victimization of society's most vulnerable members. The  
6 Defendant's performance on probation suggest that he poses the  
7 same danger to public safety that he did at the time of the  
8 offense. Under these circumstances, the People are compelled to  
9 object to the termination of probation in this case.

10 Dated: April 12, 2021.

11  
12 Respectfully submitted,

13 MORGAN B. GIRE,  
14 DISTRICT ATTORNEY

15  
16 BY: 

17 Jennifer M. Ow,  
18 ASSISTANT DISTRICT ATTORNEY  
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA )  
3 ) ss.  
4 COUNTY OF PLACER )

5 I, the undersigned, declare:

- 6 1. That I am a citizen of the United States.  
7 2. That I am over 18 years of age.  
8 3. That I am a resident of Placer County,

9 California.

- 10 4. That I am not a party to the within action.

11 5. That my business address is Placer County  
12 District Attorney's Office, 10810 Justice Center Drive  
13 Suite 240, Roseville, CA 95678

14 6. That I am readily familiar with the business  
15 practices of the County of Placer for collection and  
16 processing of correspondence for mailing with the United  
17 States Postal Service on the same date of placement for  
18 collection.

19 7. That on this date I served a copy of the within  
20 **PEOPLE'S OPPOSITION TO DEFENDANT'S PETITION TO TERMINATE**  
21 **PROBATION** by:

22  placing a true copy thereof in a sealed envelope, and  
23 placing it for collection and mailing following ordinary  
24 business practices and addressed as follows:

25  transmitting said document(s) by facsimile to the  
26 number(s) set forth below:

27 (855)377-6235  
28 Ryan P. Friedman  
1383 Garden Highway Suite 200  
Sacramento CA 95833

personally served said document(s) to the person(s) at  
the address(es) set forth below:

Executed under penalty of perjury this 12th day of April,  
2021, at Roseville, Placer County, California.  
(CCP 1013A, 2015.5)

  
Megan L. Chapman  
LEGAL SECRETARY