

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

9

United States of America

v.

MIGUEL ANGEL MARTINEZ

Case:2:17-mj-30084
Judge: Unassigned,
Filed: 02-22-2017 At 09:45 AM
CMP USA V. MIGUEL ANGEL MARTINEZ (LH)

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 September 5, 2016 - February 21, 2017 in the county of Wayne in the Eastern District of Michigan, the defendant(s) violated:

| <i>Code Section</i> | <i>Offense Description</i> |
|--------------------------|---|
| 18 U.S.C. 2252A(a)(2) | Distribution and Receipt of child pornography |
| 18 U.S.C. 2252A(a)(5)(B) | possession of child pornography |

This criminal complaint is based on these facts:

See attached affidavit

Continued on the attached sheet.


Complainant's signature

Special Agent Raymond Nichols, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 02.22.17


Judge's signature

City and state: Detroit, MI

Honorable R. Steven Whalen, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT

I, Raymond C. Nichols, a Special Agent (SA) with the Federal Bureau of Investigation (FBI), Detroit Division, being duly sworn, depose and state as follows:

I. INTRODUCTION

1. I have been employed as a Special Agent of the FBI since February 2012, and am currently assigned to the FBI Detroit Division. While employed by the FBI, I have investigated federal criminal violations related to Internet fraud, computer intrusions, and the FBI's Innocent Images National Initiative, which investigates matters involving the online sexual exploitation of children. I have gained experience through training at the FBI Academy, post Academy training, and everyday work related to conducting these types of investigations.
2. As a federal agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.
3. This affidavit is made in support of an application for a criminal complaint and arrest warrant for MIGUEL ANGEL MARTINEZ for violations of 18 U.S.C. § 2252A(a)(2) and (a)(5)(B), which prohibit the distribution, receipt, and possession of child pornography.

4. The statements in this affidavit are based on my investigation of this matter, as well as the receipt of information from other FBI personnel. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that MIGUEL MARTINEZ has violated 18 U.S.C. §§ 2252A(a)(2) and (a)(5)(B).

II. PROBABLE CAUSE

5. Between September 5, 2016 and September 12, 2016, Washoe County Sherriff's Office, Reno, Nevada Sergeant Dennis Carry, while working in an undercover capacity, signed into the BitTorrent Peer to Peer file sharing program¹ from an Internet connected computer.
6. On September 5, 2016 Sergeant Carry identified a computer using Internet Protocol (IP) address 91.121.93.59 (Subject Computer) as a potential download candidate because 21 files of investigative interest were observed. A file of investigative interest is defined as a file

¹ BitTorrent is a peer-to-peer file sharing network.

associated with keywords or hash values related to material consistent with the federal definition of child pornography.

7. During the investigation, the BitTorrent client P2P program on the subject computer reported its software as –AG2404- Ares 2.4.0.3064.
8. On September 5, 2016, Sergeant Carry downloaded videos consistent with names used for files containing child pornography. Sergeant Carry was able to download 5 incomplete but viewable files directly from the device using IP address 99.121.93.59.
9. On September 6, 2016, Sergeant Carry once again downloaded videos consistent with names used for files containing child pornography. Sergeant Carry was able to download 2 incomplete but viewable files directly from the device using IP address 99.121.93.59.
10. On September 11, 2016, Sergeant Carry again downloaded videos consistent with names used for files containing child pornography. Sergeant Carry was able to download 5 incomplete but viewable files directly from the device using IP address 99.121.93.59.
11. On September 12, 2016, Sergeant Carry completed one last download that contained videos consistent with names used for files containing child pornography. Sergeant Carry was able to download 2 incomplete

but viewable files directly from the device using IP address 99.121.93.59 at that time.

12. Your affiant has reviewed the files that Sergeant Carry downloaded from the device using IP address 99.121.93.59 between September 5, 2016 and September 12, 2016, and found that all of the files appear to depict real minor children engaged in sexually explicit conduct, including, but not limited to, the lascivious display of the genital or pubic area of any person. Below is a description of 4 of the files downloaded by Sergeant Carry from the device using IP address 99.121.93.59².

- a. "Boy & Girl 10Y ..." This video depicts a male, who appears to be approximately 10 years old engaged in penis to vagina sex with a female of unknown age. The video appears to be taken in a car;
- b. "esp pthc Comendo..." This video appears to depict an adult male engaged in penis to vagina sex with what appears to be a pre-pubescent female;
- c. "Lolitaguy Hussyfan...(11Yo)..." This video depicts what appears to be a young female in a kitchen area. The

² Portions of some of the filenames have been redacted to prevent further dissemination of child pornographic files through public databases where this affidavit may appear.

female undresses to be completely nude, and then rubs some type of liquid on herself. The female is then observed to be inserting a sexual toy into her vagina and masturbating.;

- d. "PTHC – R@ygold..." This video depicts what appears to be a pre-pubescent female child. The child is performing oral sex on what appears to be an adult male's penis.

13. A search of the Registry for Internet Numbers (ARIN) online database indicated that IP address 99.121.93.59 was registered to the Internet Service Provider ("ISP") AT&T Internet Services. ARIN is a nonprofit organization responsible for managing the Internet numbering resources for North America, and a portion of the Caribbean.
14. Results from an administrative subpoena sent to AT&T Internet Services for the date and time the files of child pornography were downloaded, revealed that IP address 99.121.93.59 was assigned to Miguel Martinez, 3XXX Ridge View Drive, Trenton, Michigan 48183.
15. A review of a law enforcement sensitive database indicated that IP address 99.121.93.59 was frequently logged into the BitTorrent peer to peer network, and had been observed sharing at least 100 files of investigative interest to child pornography investigations.

16. On January 20, 2017, using the database referenced in paragraph 17, your affiant observed that IP address 99.121.93.59 was logged into the BitTorrent peer to peer network at approximately 4:42 PM, and at that time was sharing files of interest to child pornography investigations.
17. On January 31, 2017, your affiant logged into the law enforcement sensitive database referenced in paragraph 17, which indicated that IP address 99.121.93.59 was observed yet again sharing potential child pornography files on the BitTorrent peer to peer network at approximately 10:52 AM on same date. A review of the database at that time also indicated that the number of files available for download from IP address 99.121.93.59 had increased.
18. Throughout the months of December 2016 and January 2017, your affiant has attempted numerous times to download additional files of interest. Those attempts failed. Your affiant has reason to believe, based on training received in regards to the function of the BitTorrent network, that the device sharing and receiving child pornography via IP address 99.121.93.59 is "firewalled".
19. Your affiant is aware that a "firewall" is, generally speaking, a piece of software or hardware that restricts access to a particular electronic device or particular software. In the case of BitTorrent, if the "firewall"

is setup incorrectly, a user of the software would likely be able to download from other users; however, other users may not be able to download from the "firewalled" client. Other BitTorrent users, including your affiant, who uses a special "law enforcement" BitTorrent client, would likely be able to see that the device at IP address 99.121.93.59 was downloading and sharing files, but would not be able to make a direct connection to the device. This scenario would prevent your affiant from successfully completing any downloads from the device.

20. On February 21, 2017, a federal search warrant was executed at 3XXX Ridge View Drive, Trenton, Michigan 48183. Computer media items were seized from the residence.
21. On February 21, 2017, Miguel Martinez agreed to be interviewed. He stated that he lived at the above residence, alone. He admitted to using the Ares peer-to-peer file sharing program to download files. Martinez said that "may have seen" child pornography files.

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22. Based upon the foregoing, there is probable cause to believe that MIGUEL ANGEL MARTINEZ has knowingly distributed, received, and possessed child pornography in violation of 18 U.S.C. §§ 2252A(a)(2) and (a)(5)(B).

Accordingly, your Affiant respectfully requests that this Court issue an arrest warrant.



Raymond C. Nichols
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 22 day of February 2017.



Honorable R. Steven Whalen,
UNITED STATES MAGISTRATE JUDGE