

FILED

AO 91 (Rev. 11/11) Criminal Complaint

MAR 12 2012 *AK*

UNITED STATES DISTRICT COURT

for the
Eastern District of California

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

United States of America)
v.)
Timothy Valdez)
)
)
)
)
)
)

Case No. 1:12-mj-00049 SKO

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 2011 in the county of Stanislaus in the
Eastern District of California, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 2251(a)	Sexual Exploitation of Minors

This criminal complaint is based on these facts:

Continued on the attached sheet.

Jaime Cardoza

Complainant's signature

JAIME S. H. CARDOZA, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: March 12, 2012

Sheila K. Oberto

Judge's signature

City and state: Fresno, CA

Sheila K. Oberto, United States Magistrate Judge

Printed name and title

AFFIDAVIT

I, JAIME S. H. CARDOZA, being duly sworn, state as follows:

1. I have been employed as a Special Agent with the Department of Homeland Security, Immigration and Customs Enforcement since August 2007. I am currently assigned to Homeland Security Investigations (HSI), Resident Agent in Charge (RAC) Stockton, California. As a Special Agent with HSI, my duties include the investigation and enforcement of all United States Customs and Immigration laws and regulations. From April 2007 until October 2011, I was assigned to the Oakland Port Security/Commercial Fraud Unit. During this time, I worked on multiple counterfeit goods investigations both assisting other agents and as a primary case agent. My training includes a twelve-week Criminal Investigator Training Program, an eleven-week ICE Special Agent Training Program at the Federal Law Enforcement Training Center (FLETC) located in Glynco, Georgia, an eleven-week training program in Customs laws and regulations at FLETC, and various training seminars in Customs law, specifically commercial fraud.

2. Prior to becoming an ICE Special Agent, I was employed as a Customs and Border Protection Officer with United States Customs and Border Protection (CBP). In February 2000, I began as a Customs Inspector with the former United States Customs Service, which became CBP in March 2003. During my employment with CBP and Customs, I worked in both passenger and cargo environments. For most of my final six months at CBP, I was the coordinator of the Centralized Exam Facility which is used by the Anti-Terrorism/Contraband Enforcement Team for examination of suspect cargo. In that capacity, I examined numerous shipments containing counterfeit cargo. The shipping documents showed nearly all of these shipments originated in China.

3. As a federal law enforcement agent, I am authorized to investigate possible violations of federal law and to execute arrest warrants under the authority of the United States.

4. This Affidavit is made in support of a warrant to arrest to Timothy Valdez for a violation of 18 U.S.C. § 2251(a), relating to material involving the sexual exploitation of minors.

PROBABLE CAUSE

5. On December 16, 2011, ICE received a referral from the Danish National Police related to a video containing child pornography. The video had been downloaded from the Internet by law enforcement officers in Denmark. Although the video is one file, the video appears to have been stopped and started again on at least three different occasions as described below using the term segment. The video is entitled "SANY and man (2011).mp4." The video was referred to United States and Canadian law enforcement because, based on analysis of the video, Danish Police believed that the video had been produced in North America.

6. The video depicts an unidentified adult male and a prepubescent male engaged in sexually explicit conduct. The prepubescent male minor lacks post-secondary sexual characteristics including pubic hair development. The video is 15:15 minutes long and is more fully described below. The video begins focusing on a pre-pubescent male child's erect penis. An adult male's erect penis comes in to the frame and rubs up against the child's penis. An adult male's hand comes in to the frame and strokes the child's penis. The two exchange in the following dialogue:

Adult – "Suck on mine."

Child - "I want you to suck on it so I can video it."

Adult - "That's not fair I sucked on it for a long time."

Child - "(unintelligible) for a little bit."

Adult - "Suck mine first."

7. The child then orally copulates the adult male. While the copulation is occurring, the adult male moans and states "You're gettin' better." The adult male then orally copulates the child for a time and on occasion manually manipulates the child's penis. They then position themselves in what is commonly referred to as the "69" position where the adult male is lying supine on his back and the child is straddling the adult male's face while they orally copulate each other at the same time. This segment of the video goes until 08:49 minutes.

8. At 08:50 minutes a new segment of the video begins. The same child depicted in the first segment, but now with longer hair, is in what appears to be a kitchen wearing pajamas. The child appears to be making chocolate milk with Hershey's Chocolate Syrup. The labeling is consistent with the US market. The adult male subject rubs the child's genital area through the pajamas while the child is making the chocolate milk. A plastic gallon of milk is visible on the counter, however, the labeling is faced away from the camera. The milk container is consistent with US markets. A container of Dawn dishwashing detergent is visible near the sink. According to Wikipedia, Dawn is the leading dishwashing detergent in the United States. A container of Dial hand soap is also visible near the sink. The adult male manually manipulates the child's penis and then orally copulates the child. The child then orally copulates the adult male.

9. At 10:44 minutes a new segment of the video begins. The same child depicted in the first and second segments is depicted lying supine on a bed. The child is wearing a red shirt and blue jeans. The jeans are open with the zipper down and the child's

erect penis exposed. The adult male says "Show me how you jack off." The child then manually manipulates his own penis. The adult male then asks the child to tape him while he orally copulates the child, which the child does.

10. The segment then switches to the child orally copulating the adult male. They are interrupted by another younger child entering the room. The two scramble to hide what they are doing from the younger child. The segment then switches to the original child orally copulating the adult male and then the adult male manually manipulating his own erect penis. The younger child can be heard in the background saying "Dad (unintelligible)."

11. At 12:40 minutes a new segment begins depicting the original child in the nude orally copulating the adult male, while the adult male sits on a couch. The two of them then rub their erect penises together. The child then gets on the couch on his knees and the adult male places his penis in the child's buttocks rubbing against the child's anus.

12. The person depicted in this video is described as a male, 30 – 40 years in age, with a medium to heavy build. He has black hair and in the video has a goatee. He appears to have brown eyes. He has a series of distinctive moles on his left upper arm. His right nipple is pierced with a metallic object.

13. On January 12, 2012, a federal arrest warrant was issued out of the United States District Court for the District of Columbia for John Doe, white male, 30-40 years old, medium to heavy build, black hair with goatee, brown eyes, pierced right nipple, series of moles on upper left arm. Case 1:12-mj-00039.

14. On March 9, 2012, at approximately 5:45 pm, Stockton, CA Resident Agent in Charge Kim Wong received a call from SAC San Francisco Group Supervisor (GS) Orin Clapp. GS Clapp stated that he had been contacted regarding a HSI Tip-line referencing a

child pornographer with an active Immigration and Customs Enforcement (ICE) arrest warrant. The Tip-line call referenced webpage www.myspace.com/TimValdez. The caller stated that there were similarities between the man wanted by ICE and the person in MySpace. The man has the same beard and glasses, approximately 36 years old, gay father with a son named Diego. From the MySpace page, the caller believes that the wanted person may be living in Modesto, CA.

15. Upon reviewing the webpage provided, I, using HSI databases, located an address and California Department of Motor Vehicles driver's license photo. SA Cardoza was able to locate only one Timothy VALDEZ in the Modesto area. VALDEZ has a birthdate of December 19, 1975, and a listed address of 1121 El Vecino Court, Modesto, California.

16. RAC Wong and I compared still images captured from "SANY and man (2011).mp4" with the MySpace page and his CA DMV photo. The facial features, i.e. facial hair, eyebrows, hair, and hair line were the same. One still photo from the video shows the subject wearing glasses that were very similar to the glasses in his CA DMV photograph.

17. On March 9, 2012, SA Cole, using an undercover Facebook account, sent Timothy VALDEZ a friend request. VALDEZ accepted the request. By adding SA Cole's undercover account as a friend VALDEZ gave access to his full profile including photographs, likes, dislikes and other information about himself. SA Cole reviewed the photographs discovering several pertinent items:

18. SA Cole took screenshots of several of the images in Timothy VALDEZ's albums including several images which appear to be depict the victim from the abuse video. SA Cole reviewed the abuse video and the images depicted in screenshots and based on his

opinion, the suspect in the videos is Timothy VALDEZ. This assertion is based on several physiological characteristics including the likeness of the eyes, hair, facial hair pattern and ears.

19. In addition, SA Cole believes the victim is the same child depicted in several of the Facebook photos based on several physiological characteristics including the shape of the face, position and shape of the ears, color of the hair and eyes, and the similarity of the nose. Attached as Exhibit C are screen shots of Valdez's MySpace and Facebook page and screen shots taken from the abuse videos, described above.

20. SA Cole is currently assigned to the Child Exploitation Investigations Unit at the ICE HSI Cyber Crimes Center as the National Program Manager for Victim Identification. As part of my duties as an HSI agent and National Program Manager for Victim Identification, I investigate criminal violations relating to the exploitation of children including violations pertaining to the production and distribution of child pornography in violation of the United States Code. He conducts Victim Identification through the use of image, video and audio analysis and forensic tools and applications. SA Cole has received training in digital forensics and is a Certified Forensic Computer Examiner (CFCE). SA Cole has received training in the use of image and video analysis and regularly consults with industry experts in the use image, video and audio analysis tools and applications.

21. On March 10, 2012, a federal search warrant was obtained and executed at the Valdez's residence at 1121 El Vecinó Court, Modesto.

22. On March 10, 2012 at about 4:15 p.m. Timothy Valdez was encountered by HSI RAC Stockton agents. Valdez was believed to be the subject of a 'John Doe' arrest warrant from the U.S. District Court, District of Columbia for violations of 18 U.S.C.

2251(a), production of child pornography. When encountered, Valdez was informed that there was a warrant for his arrest. I showed Valdez two pictures from Attachment A of the criminal complaint which resulted in the District of Columbia arrest warrant. Valdez identified the man in the photos as himself. At that point Valdez was informed that there was an arrest warrant for the man in the photographs and that the warrant bore the name 'John Doe' as he had not yet been identified. Valdez was transported to Modesto Police Department where he was interviewed by me and Detective Sean Dodge of Modesto Police.

23. Upon arrival at Modesto Police Department, the handcuffs were removed from Valdez and he was advised of his rights. Valdez was provided a copy of his rights, which he read and then discussed with me. Valdez stated he understood his rights and waived his rights and agreed to speak with law enforcement. Valdez was asked if he recognized the pictures from the internet involving the sexual exploitation of a minor. Valdez stated that it was him, but he did not remember when the pictures were from. Valdez was informed that the pictures were still shots from a video found on the internet. When questioned about the video, Valdez admitted that he made the video, but cannot remember posting it on the internet. Valdez stated that the video was made in 2008 in Oklahoma. Valdez claims to have lived in Oklahoma for about eight months in 2008. During this time, Valdez had sexual contact with an eight year old boy (Boy 1). The sexual activity happened on more than one occasion, but was not habitual and lasted no longer than one month. Valdez stated that he was 'stoned' on marijuana when the video was made. Valdez stated that this sexual contact was the results of sexual frustration and curiosity on his part and had nothing to do with dominance. Valdez stated that he knows it was wrong. Valdez still sees the boy occasionally as the boy's family now lives in the Eastern District of California.

24. When questioned about other children, Valdez stated that there was one more, the seven (7) year old brother (referred to as Boy 2) of Boy 1. Sometime in August 2011, Boy 1 and Boy 2 were spending the weekend with Valdez at 1121 El Vecino Court, Modesto, California. Boy 1 and Valdez's son were sleeping while Valdez was in his bedroom with the door open watching pornography with his pants down and an erect penis exposed. Valdez hugged Boy 2 and told him to go to bed. At this point Valdez noticed that Boy 2 was also erect. Boy 2 began asking question about the pornography. This led to Valdez and Boy 2 engaging in oral copulation in Valdez's bedroom with the door open. This sexual contact with Boy 2 happened two consecutive nights. Valdez stated that he recorded video and took photos of Boy 2 while involved in the sexual activities and that the photos and videos would be found on his computer. Valdez stated that during these sexual encounters, neither Valdez nor Boy 2 ejaculated. Valdez further stated that he told Boy 2 'We're not supposed to do this' and 'Don't feel like you have to do this.'

259. Valdez stated that he had no contact with any other children. Valdez stated that he had 'lots' of pornography both adult and child and that he had been collecting child pornography for over fifteen (15) years. Valdez claimed to be a stay at home dad who survived on welfare and was filing for social security benefits.

JAIME S. H. CARDOZA
Special Agent
Immigration and Customs Enforcement

Subscribed and sworn to before me this
_____ day of March 2012

SHEILA K. OBERTO
United States Magistrate Judge
Eastern District of California
Fresno, California