

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

APR 05 2012 *df*

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of New Mexico

United States of America )

v. )

Joseph F. Zinkiewicz, )

Year of Birth: 1936 )

SSN: xxx-xx-7431 )

Defendant(s)

MATTHEW J. DYKMAN  
CLERK

Case No. 12MJ803

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 October 14, 2011 - April 4, 2012 in the county of Colfax in the Judicial District of New Mexico, the defendant(s) violated:

*Code Section*

*Offense Description*

Title 18, United States Code,  
Section 2252(a)(2) and (a)(4)(B)

Distribution, Receipt and 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 October 14, 2011 to April 4, 2012 Joseph F. Zinkiewicz distributed, received and possessed visual depictions of minors engaged in sexually explicit conduct in violation of Title 18, United States Code, Sections 2252(a)(4)(B) and (a)(2).

Continued on the attached sheet.



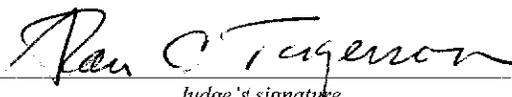
Complainant's signature

Eric Bonza, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 4/5/12



Judge's signature

Alan C. Torgerson

U.S. Magistrate Judge

City and state: Albuquerque, New Mexico

**ATTACHMENT A**

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Eric Bonza, being duly sworn, hereby declare and state as follows:

Your Affiant is a Special Agent with the Department of Homeland Security, Homeland Security Investigations, hereafter referred to as HSI, and has been employed by HSI as such since December 2010. Your Affiant is currently assigned to the Assistant Special Agent in Charge, Albuquerque, NM where your Affiant is assigned to investigate individuals involved in the exploitation of minors including violations of Title 18, United States Code, Section 2252. Your Affiant has worked many child pornography and child exploitation investigations and has been trained in the investigation of computer related child exploitation and child pornography cases by the Department of Homeland Security and the Internet Crimes Against Children Task Force. During the investigation of these cases, your Affiant has executed, or participated in the execution of, numerous search warrants and seized evidence of these violations.

Your Affiant successfully completed eleven weeks of Criminal Investigator Training at the Federal Law Enforcement Training Center (FLETC) and received the Academic Honors Award for this program. In addition, your Affiant completed eleven weeks of Special Agent Training with Immigration and Customs Enforcement, also at FLETC. Your Affiant holds a Bachelor's Degree in History and Secondary Education from the University of Michigan, and has completed coursework for a Master's of Science in Intelligence Analysis from the University of Detroit Mercy.

The following information relating to the investigation of Joseph F. Zinkiewicz 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 Zinkiewicz possessed, received and shipped visual depictions of minors engaged in sexually explicit conduct (hereafter "child pornography") in violation of Title 18, United States Code, Sections 2252(a)(4)(B) and (a)(2).

**Applicable Statutes**

According to 18 U.S.C. Section 2252(a)(2), it is a federal crime for a person to "knowingly receive or distribute...any visual depiction [of a minor engaged in sexually explicit conduct] using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer...."

ACT

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 Darrell Franklin that from March of 2011 through October of 2011, a child exploitation investigation had been conducted and identified a suspect in Colorado as a distributor of child pornography images via the Internet. The subsequent investigation revealed that the suspect, using the alias "Damian McGinty", distributed child pornography images via the Internet using the email account "damianmcginty98@gmx.co.uk". Over the course of the investigation, the suspect distributed child pornography images to an HSI undercover agent (hereafter UCA) on several occasions.
- In furtherance of the investigation the UCA engaged in undercover communications via email, phone and in a face to face meeting with the suspect, who stated that he was a member of group that utilized email accounts to distribute child pornography images. In a face to face meeting on October 28, 2011, the suspect provided the UCA with a 1TB encrypted hard drive containing thousands of child pornography images and videos.
- On November 3, 2011, Franklin obtained a search warrant in the U.S. District Court for the District of Colorado for the content of the email account "damianmcginty98@gmx.co.uk" maintained by 1&1 Mail & Media Inc.
- On November 16, 2011, Franklin reviewed a compact disk (CD) received from 1&1 Mail & Media Inc, and discovered emails that the suspect "Damian McGinty" sent and received from several other email accounts discussing the distribution of child pornography images and how to avoid detection by law enforcement. Franklin was informed by 1&1 Mail & Media Inc. that the email account "damianmcginty98@gmx.co.uk" had been relinquished by the suspect and now available to be used by other users. Franklin took over the email account "damianmcginty98@gmx.co.uk" to be used in an undercover capacity
- During the review of the CD containing emails to and from the email account "damianmcginty98@gmx.co.uk", Franklin discovered that on October 14, 2011, the email account "damianmcginty98@gmx.co.uk" sent an email titled, "Subject: Boys" to the email account "znplusplus@q.com" containing 38 child pornography images and 2 child pornography videos. Three examples of the image files were described to your Affiant by Franklin as follows:

\*File name: "showmail.jpg". This image file depicts a nude preadolescent male straddling another nude preadolescent male believed to be inserting his erect penis into his anus.

\*File name: "suck-boy.jpg". This image file depicts a nude preadolescent boy laying on his back on a bed while another nude preadolescent minor performs oral sex on his erect penis.

\*File name: "kdv - bb7 181(boy sucks boy).mpeg". This video file depicts a nude prepubescent boy laying on his back while another preadolescent male performs oral sex on his erect penis.

- On January 3, 2012, Franklin forwarded a Department of Homeland Security Summons to Qwest/CenturyLink seeking subscriber information for the email account "znplusplus@q.com". Franklin knew through training and experience that "q.com" denotes a Qwest based email account. On January 3, 2012, Qwest/CenturyLink provided the following subscriber information:

Subscriber Name: Joseph F. ZINKIEWICZ  
Subscriber Address: 832 N 1st Street, Apt 1, Raton, NM 87740-3468  
Billing Address: 832 N 1st Street, Apt 1, Raton, NM 87740-3468  
Subscriber phone: 575-445-2879  
Service length: 10/13/2007 to present  
Type of service: Qwest DSL and Direct TV  
Payment: Credit card (Master card ending in 9399)  
Card holder Name: Joseph F. ZINKIEWICZ  
Card holder Address: 832 N 1st Street, Apt 1, Raton, NM 87740

- On January 3, 2012, Franklin conducted checks of commercial and law enforcement databases, such as TLO, for ZINKIEWICZ revealing the following information:

Name: Joseph Francis ZINKIEWICZ  
Year of birth: 1936  
Description: White male, 6'00", 250lbs.  
Address: 832 N 1st Street, Apt 1, Raton, NM 87740-3468  
Phone: 575-445-2879  
Registered vehicle: 1995 Mercury Sable sedan, VIN# 1MELM5041SG657464  
Registered vehicle: 1995 Mercury Sable sedan  
License plate #: NM LMS346  
Registered Address: 832 N 1st Street, Apt 1, Raton, NM 87740

- Upon review of the criminal history for ZINKIEWICZ, Franklin learned that on January 21, 2002, ZINKIEWICZ, a retired schoolteacher, pled guilty to distribution of child pornography. ZINKIEWICZ was convicted by the Superior Court of New Jersey-Ocean County. Your Affiant verified via the Indictment and Judgment of

Conviction documentation acquired by Franklin from the Superior Court of New Jersey Law Division that ZINKIEWICZ was found guilty of second degree distribution of child pornography. The document states that "JOSEPH ZINKIEWICZ on diverse dates between January 1, 2000 and December 12, 2001, inclusive, in the Township of Dover, County of Ocean, and within the jurisdiction of this Court, knowingly did offer or agree to offer for sale, and/or videotapes, which depict a child engaging in a prohibited sexual act or in a simulation of such act, contrary to the provisions of N.J.S.A. 2C:24-4b(4)(a) and against the peace of this State, the government and dignity of the same."

- On January 4, 2012, acting in an undercover capacity, Franklin, while located in the state of Colorado, used the email account "damianmcginty98@gmx.co.uk" to engage in communications with the suspect email account "znplusplus@q.com" in furtherance of the ongoing child exploitation investigation. During the duration of the investigation, Franklin was located in the state of Colorado. The following are excerpts from the emails between the undercover email account "damianmcginty98@gmx.co.uk" and the suspect email account "znplusplus@q.com". The file descriptions were provided to your Affiant by Franklin:

\*Date: January 4, 2012 at 3:38pm MST  
From: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
To: "JFZ" <znplusplus@q.com>

"Hey, this is Damian. Just checking to see if you are still on here?"  
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\*Date: January 6, 2012 at 5:38pm MST  
To: "JFZ" <znplusplus@q.com>  
From: "Damian McGinty" <damianmcginty98@gmx.co.uk>

"I'm still here. Jay"  
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\*Date: 02/13/12 at 04:53PM MST  
Subject PICS  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>

"Greetings, Are you interested in sharing pics?"  
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\*Date: 02/23/12 at 10:16AM MST  
Subject PICS  
From: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
To: "JFZ" <znplusplus@q.com>

"of course. What do you have?"

ACT

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\*Date: 02/23/12 at 07:19PM MST  
Subject Fwd: Group  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
Attachment: 18

"How about these?"

Franklin reviewed the attachments to this email and found it contained 18 images. Three examples of the image files were provided to your Affiant by Franklin as follows:

\*File name: "5f46.jpg". This image file depicts a male inserting his erect penis into his anus of another preadolescent male.

\*File name: "05(11).jpg". This image file depicts a nude adolescent boy lying on his back on a bed while spreading his legs to show his erect penis and anus. The erect penis and anus were displayed as the focal point of the image.

\*File name: "05(5).jpg". This image file depicts close up picture of the erect penis of a nude adolescent boy laying on his back.

- On February 27, 2012, Franklin checked the properties and header of the email above from the suspect email account "znplusplus@q.com" and discovered the originating internet protocol (IP) address for the email was 97.123.240.93. Franklin searched the American Registry of Internet Numbers, (ARIN.NET) and discovered this IP address was registered to Qwest Communications, now operating as CenturyLink.
- On February 29, 2012, Franklin forwarded a Department of Homeland Security Summons to Qwest/CenturyLink seeking subscriber information for the user assigned the Internet Protocol (IP) address 97.123.240.93 on February 23, 2012 at 7:19PM (MST). On February 29, 2012, Qwest/CenturyLink provided the following subscriber information:

Subscriber Name:	Joseph F. ZINKIEWICZ
Subscriber Address:	832 N 1st Street, Apt 1, Raton, NM 87740-3468
Billing Address:	832 N 1st Street, Apt 1, Raton, NM 87740-3468
Subscriber phone:	575-445-2879
Service length:	10/13/2007 to present
Type of service:	High speed internet
Email:	znplusplus@q.com
IP Address assigned:	97.123.240.93
	Begin: 02/16/12 11:51 (GMT) End: 02/25/12 06:15 (GMT)

- On February 27, 2012, Franklin sent the following email from the undercover email account "damianmcginty98@gmx.co.uk" to the suspect email account "znplusplus@q.com":

\*Date: 02/27/12 at 2:20PM MST  
Subject Re: Fwd: Group  
From: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
To: "JFZ" <znplusplus@q.com>

"Awesome pics. Thanks. I hate to brag but I just hit the jackpot. My buddy from Colorado gave me an early birthday present and gave me a 1TB harddrive full of goodies. How much do you have total? Interested in a trade????"

- On February 27, 2012, Franklin received the following emails to the undercover email account "damianmcginty98@gmx.co.uk" from the suspect email account znplusplus@q.com. The file descriptions were provided to your Affiant by Franklin:

\*Date: 02/27/12 at 4:24PM MST  
Subject Fwd: Gift for you  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
1 Attachment: 2 boys naked on bed.mp4

"I don't have much but here is the first of what I have."

This email above titled, "Fwd: Gift for you" contained 1 video titled, "2 boys naked on bed.mp4". The video is 4 minutes and 45 seconds long and depicts two nude adolescent boys on a bed engaged in oral and anal sex with each other.

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\*Date: 02/27/12 at 4:34PM MST  
Subject Fwd: pics  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
2 Attachments: ZN.zip, !2006 John& Carlos.zip

"Some pics, more to follow. Can't wait to see what you have!!!!!"

This email above titled, "Fwd: pics" contained 2 zip files titled, "ZN.zip" and "!2006 John& Carlos.zip". ZN.zip contained four (4) images depicting an adult male inserting his erect penis into the anus of an adolescent boy. !2006 John& Carlos.zip contained seven (7) images depicting two nude and partially clothed adolescent boys. At least one (1) of the images depicts an adolescent boy displaying his testicles and anus as the focal point of the image.

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\*Date: 02/27/12 at 10:10PM MST  
Subject Fwd: No subject  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
1 Attachment: 001.rar

This email above titled, "Fwd: No subject" did not contain a message, but did contain one zip file titled, "001.rar". 001.rar contained 21 folders, which in turn contained approximately three hundred and sixty-seven (367) images. At least one-third (1/3) of the images depict what Franklin described as child pornography. These images depict adolescent boys and young adult males engaged in acts, including masturbation and performing oral sex. One (1) of the folders, named "44\_s-m", includes images depicting nude adolescent boys with their arms, legs or necks bound with some performing oral sex on other males. Your Affiant, who was provided the images by Franklin, describes four of the images contained in this file as follows:

File Name: "7"

A still digital image of what your Affiant believes to be an approximately 8-10 year old nude male. The male is bound with brown cord around the wrists and ankles and is strung up and attached to a series of wood planks. The male is positioned so that he is hanging from the cord tied around his wrists and his feet are raised up and positioned near his hands. His legs are secured near his wrists by the cord. The male has what your Affiant believes to be duct tape covering his mouth and his penis, testicles, and anus are exposed. The background of the photo displays exposed plumbing hanging from the ceiling and red brick and mortar ceiling and walls. The focal point of the image is on the male's exposed penis, testicles, and anus.

File Name: "0006"

A still digital image of what your Affiant believes to be an approximately 7-10 year old partially nude male child with an adult male's penis in his mouth. The adult male is in a standing position and the child is kneeling. The child is wearing a black jacket with a black piece of material going across his stomach. The adult male is wearing a black jacket and white and blue striped tube socks. The adult male is nude from the waist area to just below his knees and his penis is exposed. The child is nude below the waist and his penis is exposed. The child has the adult male's penis in his mouth and his right hand is holding the adult male's testicles. The focal point of the image is on the child having the adult male's penis in his mouth and on the child's exposed penis.

File Name: "0005"

A still digital image of what your Affiant believes to be two nude males that are approximately 11-14 years old. The males are displayed on a black couch with one of the males facing away from the camera and his arms draped over the back of the

couch and his buttocks, anus, and testicles positioned toward the camera. The male facing away from the camera has a black belt with silver spikes around his waist and a black piece of material with silver spikes that is positioned over his right shoulder and is attached to the other males' wrist. The other male is crouched on the couch to the left side of the other male and he has a black material with silver spikes around his neck. The male that is crouched on the couch is holding a black sex object with his right hand and is inserting it into the other male's anus. The focal point of the image is on the males wearing black material that has silver spikes and the black sex object being inserted into the male's anus.

File Name: "0004"

A still digital image of what your Affiant believes to be two nude male that are approximately 11-14 years old. The males are displayed on a black material that is on the floor and in the background. One of the males is on his knees on the floor with his head positioned on the floor. The male is bound around his wrists, arms, and legs with what your Affiant believes to be a white electrical cord. The male has a clear plastic bag over his head and it is secured with a black chin strap that wraps around his head. The other male is standing up and is bent over with his left hand grasping the buttocks of the other male. The male that is standing up is holding a metallic object in his right hand and the object is positioned near the other male's anus. The metallic object has a white cord attached to it which ties into what your Affiant believes to be the white electrical cord that is wrapped around the other male several times. The penis of the male that is standing up is exposed and the testicles of the kneeling male are exposed. To the left side of the photo, near the right foot of the male that is standing up, is a black handled metallic object that is a knife or other cooking utensil. The focal point of the image is on the males' exposed genitals, the metallic object being positioned near the male's anus, and the male being bound with cord and having a plastic bag over his head.

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\*Date: 02/27/12 at 10:10PM MST  
Subject Fwd: Group  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
18 Attachments:

This email above titled, "Fwd: Group" did not contain a message, but did contain 18 images. The images were the same 18 images, previously described, as sent on 02/23/12 at 07:19PM under the subject "Fwd: Group".

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\*Date: 02/27/12 at 10:11PM MST  
Subject No Subject  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>

18 Attachments:

This email above titled, "No Subject" did not contain a message or any attachments.

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\*Date: 02/27/12 at 10:12PM MST  
Subject Fwd: No Subject  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
8 Attachments:

This email above titled, "Fwd: No Subject" contained 8 images depicting nude adolescent boys on a bed. At least 1 of the images depicts a nude adolescent boy lying on a bed spreading his legs, with his penis as the focal point of the image.

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\*Date: 02/27/12 at 10:12PM MST  
Subject Fwd: No Subject  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
8 Attachments:

This email above titled, "Fwd: No Subject" contained 8 images depicting nude adolescent boys. All 8 of the images depict adolescent boys displaying their penises as the focal point of the images.

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\*Date: 02/27/12 at 10:13PM MST  
Subject Fwd: No Subject  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
9 Attachments:

"Hope these are new."

This email above titled, "Fwd: No Subject" contained 9 images depicting nude adolescent boys. All 9 of the images depict adolescent boys displaying their penises as the focal point of the images.

- On February 28, 2012, Franklin sent the following email from the undercover email account "damianmcginty98@gmx.co.uk" to the suspect email account "znplusplus@q.com":

\*Date: 02/28/12 at 10:44AM MST  
Subject: Fw: Re: Fwd: Group  
From: "Damian McGinty" <damianmcginty98@gmx.co.uk>

To: "JFZ" <znplusplus@q.com>

"Cool. I will be visiting my friend in southern Colorado very soon to pick up my hard drive. I was thinking if you wanted I could give you a copy if you had a big enough hard drive to copy stuff onto. thats how i usually trade big files. it will take FOREVER to email the files since there are thousands of big videos. like I said it is a terabyte!! whoo hoooo."

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- On February 28, 2012, Franklin received the following email to the undercover email account "damianmcginty98@gmx.co.uk" from the suspect email account "znplusplus@q.com". The file descriptions were provided to you Affiant by Franklin:

\*Date: 02/28/12 at 10:48PM MST  
Subject: Re: Group  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>

"Greetings, Southern Colorado? I live in northeastern New Mexico. Maybe we can get together when you come down. What you said about the hard drive, I have no idea what you are talking about. I am what you call computer illiterate. I just know how to use the internet and the email and some of the time I have difficulty with those. Jay."

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- On March 1, 2012, Franklin sent the following email from the undercover email account "damianmcginty98@gmx.co.uk" to the suspect email account "znplusplus@q.com":

\*Date: 03/01/12 at 3:54PM MST  
Subject: Re: Group  
From: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
To: "JFZ" <znplusplus@q.com>

"Yes we can meet. I still dont know when I will travel down there yet. I will let you know. The hard drive i am picking up has tons and tons of videos with everything on it you can think of. i will copy them for you before we meet, but I dont want to waste my time copying stuff you dont want. Let me know what types of videos you want. I have videos with all ages and both sexes doing all kinds of stuff!!! whatever you want. If you want me to check with my friend to see what he has on the drive, let me know and I will get back with you."

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- On March 1, 2012, Franklin received the following email to the undercover email account "damianmcginty98@gmx.co.uk" from the suspect email account "znplusplus@q.com". The file descriptions were provided to you Affiant by Franklin:

\*Date: 03/01/12 at 4:07PM MST  
Subject: Re: Group  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>

"Greetings, Thanks for the reply. It is very thoughtful of you to make that offer. I'm not interested in girls just boys. I don't know how I would get all that on my computer, though. As I said, I am computer illiterate. What town in southern Colorado will you be going to? Trinidad is not far from where I live, just about 20 miles. Looking forward to hearing from you. Jay."

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- On March 2, 2012, Franklin sent the following email from the undercover email account "damianmcginty98@gmx.co.uk" to the suspect email account "znplusplus@q.com":

\*Date: 03/02/12 at 1:08PM MST  
Subject: Re: Group  
From: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
To: "JFZ" <znplusplus@q.com>

"I will be going to a city called Colorado Springs. I do have very good boy videos. My favorite!!! I have everything from softcore stuff all the way up to hardcore. Just let me know. Any particular age range? I have my favorites, but I'm not sure what you like. By the way, I have a super cutie boy living down the street from me, like 10 to 12yo I'd guess. Looks just like the boy in the video you sent to me. So hot. It's pretty hard to find willing playmates here where I live now. Where I used to live, it was easier to play safely. How is it in New Mexico?"

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- On March 2, 2012, Franklin received the following email to the undercover email account "damianmcginty98@gmx.co.uk" from the suspect email account "znplusplus@q.com":

\*Date: 03/02/12 at 1:38PM MST  
Subject: Re: Group  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>

"Greetings, Yes, I know the Springs. I live about two hours further south on I25 in Raton, just over the Colo. - NM line. I frequently do my shopping in Trinidad. Would

you like to come down to Raton? I see that your email address has @gmx.co.uk. Why is that? The age group I prefer is between 10 and 16, preferably hard core but if they are cute, soft core as well. In the past, I had a few YF but I don't any longer. I'm too old for anyone to have an interest in me, I'm 75 and retired (I hope my age doesn't scare you away.) Therefore, I don't know how easy it is to make contacts with any. I still have a roving eye, though, watching the real cuties whenever I have a chance. When I was on a trip to Copenhagen, Denmark, I was informed by an email friend of mine that the indoor swimming pools permitted nude swimming. So I went to one and sure enough he was telling the truth. Most of the naked ones were boys and a few girls and adults. That was about 20 years ago, I guess there isn't much of that allowed now. The "morals" of this country is sweeping the world. I remember seeing boys wearing only Speedos in this country but not any more. Speaking of Speedos, What is that site that has many contributors of boys pics in Speedos. I Think it's IMAGE something. I used to have it in my favorites but I lost it. When I was in Germany, I went to a few places that sold various nude material that I had shipped home - pics, movies, calendars, etc. Unfortunately the police confiscated all that I had well over 100 vids and 3000 pics. I used to be a teacher and a part time professional actor. I still do some acting in town. What about yourself? Good hearing from you. Jay."

- On March 4, 2012, Franklin received the following email to the undercover email account "damianmcginty98@gmx.co.uk" from the suspect email account "znplusplus@q.com":

\*Date: 03/04/12 at 3:00PM MST

Subject: Vid

From: "JFZ" <znplusplus@q.com>

To: "Damian McGinty" <damianmcginty98@gmx.co.uk>

"Greetings, I just spent an entertaining time looking at a number of vids that some one sent to me on a CD. There are some extremely hot items on the CD, especially one of a young preteen who could really swallow quite a bit. The item is as thick around and as long as a cucumber. Amazing what he did. By the way, in what town/city do you live in Colorado? The first place that came to my mind was Denver. Do you know Jeff who has a site on Fastmail? I have been corresponding with him for about a year. I met two other people through him and we have exchanged items both over the internet and by mail. In fact, I sent one person eleven pounds of pics I accumulated over the past eight years. To the other person I sent a dozen Cd's on loan. He sent them back to me which is how I got to view them again. Jeff is a very interesting person and quite generous with what he does for people. Did you have any snow where you live? We had some two days ago with very low temps - the radio station reported -3 Friday. Today it is almost 50 and expected to be warmer the next few days. Wednesday I am having all but one tooth of my upper teeth extracted. I was supposed to have that done two weeks ago but the doc couldn't find a vein to administer the anesthetic. So I have to go to the hospital to have a temporary port inserted for him to tap into. I hope all goes well and I get over the discomfort quickly. Sorry to be bending you ear with all this, therefore I will end it now."

ACT

- On March 4, 2012, Franklin received the following emails to the undercover email account "damianmcginty98@gmx.co.uk" from the suspect email account "znplusplus@q.com". The file descriptions were provided to your Affiant by Franklin:

\*Date: 03/04/12 at 3:16PM MST  
Subject Fwd: Group  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
18 Attachments

"Hope these are new ones. Jay."

This email above titled, "Fwd: Group" contained 18 child pornography images depicting nude adolescent boys. The images were the same 18 images, previously described, as sent on 02/23/12 at 07:19PM under the subject "Fwd: Group".

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\*Date: 03/04/12 at 3:18PM MST  
Subject Fwd: <No Subject>  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
8 Attachments

"New?"

This email above titled, "Fwd: <No Subject>" contained eight child pornography images depicting nude adolescent boys. The images were the same 8 images, previously described, as the first email sent on 02/27/12 at 10:12PM under the subject "Fwd: No Subject".

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\*Date: 03/04/12 at 3:19PM MST  
Subject Fwd: <No Subject>  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
8 Attachments

"OK?"

This email above titled, "Fwd: <No Subject>" contained eight child pornography images depicting nude adolescent boys. The images were the same 8 images, previously described, as the second email sent on 02/27/12 at 10:12PM under the subject "Fwd: No Subject".

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\*Date: 03/04/12 at 3:22PM MST  
Subject Fwd: <No Subject>  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damiandm98@gmx.co.uk>  
9 Attachments

"Greetings, I hope I haven't sent you these already. Jay"

This email above titled, "Fwd: <No Subject>" contained nine child pornography images depicting nude adolescent boys. The images were the same 9 images, previously described, as sent on 02/27/12 at 10:13PM under the subject "Fwd: No Subject".

- On March 5, 2012, Franklin received the following email to the undercover email account "damiandm98@gmx.co.uk" from the suspect email account "znplusplus@q.com":

\*Date: 03/05/12 at 3:52PM MST  
Subject: Re: Vid  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damiandm98@gmx.co.uk>

"Greetings, I have to see how my mouth feels after the dental surgery. Also I think that the dentist will want to see me on 3/21 since he only comes to the Trinidad office once every two weeks. If I feel up to it, I may come up to the Springs on 3/20 and return home the same day. I will give it some thought and let you know. If I do come up, I will bring the Cd's for you to see. I want to keep them for my enjoyment. I do have some that you can have to view when you get home. If I do go up, I should arrive in the Springs some time in the late morning and I will leave so I can get home before dark. I only have Cd's that a friend sends to me every so often. I don't know how to save them on my PC. I only keep pics and vids for a short time on my computer before I delete them. Since I had trouble with the law a few years ago, I don't want to take any more chances. I wouldn't know how to use a hard drive you mentioned. My knowledge of computers is extremely limited. In fact I am experiencing some problems now. I contacted a repair company on line and they were supposed to fix it. What they did was erase everything I had on my favorites list and made it more difficult for me to use my email - and for this they charged me a hundred bucks!!!! It is a boy who works on the man. As I said, it is a real deep throat! There are other vids on the disc that have M/b, b/b and solo action. If you have a laptop and bring it with you, you can see what I'm talking about. I do have one VCR tape that I will bring with me that you can keep, it's just a nude tape of a cute well hung boy. Jay"

- On March 5, 2012, Franklin received the following emails to the undercover email account "damiandm98@gmx.co.uk" from the suspect email account

"znplusplus@q.com". The file descriptions were provided to your Affiant by Franklin:

\*Date: 03/05/12 at 3:56PM MST  
Subject Fwd: No subject  
From: "JFZ" <znplusplus@q.com>  
To: "Damian McGinty" <damianmcginty98@gmx.co.uk>  
2 Attachments: preview 1 original.rar; ibcam 6.rar

"Here is some thing you may be interested in seeing."

This email above titled, "Fwd: No subject" contained 2 rar files titled, "preview 1 original.rar" and "ibcam 6.rar". "preview 1 original.rar" contained 12 images depicting nude adolescent boys. At least one of the images depicts a nude adolescent boy with his legs spread, with his penis as the focal point of the image. "ibcam 6.rar" contained one video, one minute and eighteen seconds in length, depicting a adolescent boy undressing in front of a webcam showing his erect penis, which is the focal point of the video.

- On March 15, 2012, your Affiant learned that a New Mexico driver's license inquiry for ZINKIEWICZ revealed the following information:

Date of issue:	January 23, 2012
Name:	Joseph F. ZINKIEWICZ
Year of birth:	1936
Description:	White male, 6'00", 225lbs., Blue eyes
Address:	832 N 1st Street, Apt 1, Raton, NM 87740-3468
DL #:	502718002

On Thursday, March 29, 2012, your Affiant surveyed the exterior of the residence, 832 N 1st Street, Apt 1, Raton, NM 87740.

On April 3, 2012, a federal search warrant was obtained from The Honorable Alan C. Torgerson, United States Magistrate Judge, for the property and premises located at 832 N 1st Street, Apt 1, Raton, NM 87740 to search for evidence and instrumentalities of violations of 18 U.S.C. Sections 2252, that being distribution, receipt and possession of visual depictions of minors engaged in sexually explicit conduct in violation of 18 USC 2252.

On April 4, 2012, HSI, with the assistance of other ICAC agencies, served a federal search warrant at the property and premises located at 832 N 1st Street, Apt 1, Raton, NM 87740. Zinkiewicz was the only resident living at 832 N 1st Street, Apt 1, Raton, NM 87740. Numerous items of computer media and photographs were seized throughout Zinkiewicz residence. In the bedroom, a Sony VAIO laptop was located. A box containing photographs and DVDs was found on the floor of what appeared to be the dining room of the residence.

On April 4, 2012, Your Affiant and Agent Joesy Casarez interviewed Joseph F. Zinkiewicz (Year of Birth: 1936), resident of 832 N 1st Street, Apt 1, Raton, NM 87740. In this recorded interview Zinkiewicz stated the following information: He has one email account. His only email account is "znplusplus@q.com". He is the only user of the email account "znplusplus@q.com". Zinkiewicz further stated that the email address "znplusplus@q.com" was provided to him by CenturyLink (formerly known as Qwest). Zinkiewicz stated that he had been looking at child pornography for approximately 10-15 years. Zinkiewicz has used his email account to exchange child pornography with multiple individuals. Currently, Zinkiewicz is communicating with four individuals regarding child pornography. Damian McGinty is one of those individuals. Zinkiewicz identified seven images of child pornography, shown to him by your Affiant, as consistent with images that he had sent Damian McGinty. The seven images shown to Zinkiewicz were sent by the email address "znplusplus@q.com" to "damianmcginty98@gmx.co.uk" and provided to your Affiant by Franklin. Zinkiewicz identified a photo album, which was found in his residence during the search warrant as his property. This photo album contained images of child pornography and was shown to him by your Affiant. An example of these images include, a photograph of a nude male, which your Affiant believes to be between the ages of 12 and 14, laying on a bed holding his erect penis. Another example includes a photograph of a nude male, which your Affiant believes to be between the ages of 12 and 14, sitting in a chair holding his erect penis. Zinkiewicz stated that he had printed the photographs in that album, which he acquired online, via his computer and placed them in the photo album. In addition, Zinkiewicz stated that he was the former director of a Boy Scout Camp, named Philmont Scout Ranch, located in New Mexico. He stated that he was a high school theater teacher in New Jersey for thirty years. He stated that he is currently involved in the community theater program in Raton, NM. Your Affiant viewed an image of Zinkiewicz located on the City of Raton website (<http://www.ratonnm.gov/holidays-in-raton>) of Zinkiewicz hugging an adolescent boy, consistent with the age of the children found in the child pornography collection located in Zinkiewicz residence.

On April 4, 2012, District Attorney Investigator Jay Ratliff found a cardboard box comprised of multiple photo books, containing numerous photographs located in what appeared to be the dining room of 832 N 1st Street, Apt 1, Raton, NM 87740. These photo books contained the following images:

Description: A still digital image of a pre-teenage male child, your Affiant believes to be between 9 and 11 years old, who is naked, except for a hat he is wearing on his head. The male is holding his penis in his left hand.

Description: A still digital image of a male, whom your Affiant believes to be between 10 and 13 years old, who is naked, sitting on a toilet. The male is holding his erect penis in his right hand.

Description: A still digital image of a pre-teenage male child, your Affiant believes to be between 10 and 12 years old, who is partially clothed, lying on a bed. The male is holding his erect penis in his right hand.

On April 4, 2012, Special Agent Kyle Craig discovered approximately 250 images in compressed files he believed to be visual depictions of minors engaged in sexually explicit conduct located on the Sony VAIO Laptop located in Zinkiewicz' bedroom.

On April 4, 2012, Zinkiewicz was arrested and taken into custody for violating Title 18, United States Code, Sections 2252(a)(2) and (a)(4)(B).

### **Interstate Nexus**

Your Affiant believes there is probable cause to believe that files containing child pornography travelled across state lines as they were sent from an e-mail account, of "znplusplus@q.com", assigned to Joseph ZINCIEWICZ at 832 N 1st St Apt. 1, Raton, New Mexico 87740, from a computer with an IP Address assigned to Joseph ZINCIEWICZ at 832 N 1st St Apt. 1, Raton, New Mexico 87740 to Special Agent Darrell Franklin, who was located in the state of Colorado. Thus, your Affiant believes that because these images were transmitted from the state of New Mexico to the state of Colorado, the "in or affecting interstate commerce" is satisfied for the purposes of distribution, receipt and possession of visual depictions of minors engaged in sexually explicit conduct in violation of 18 USC Section 2252 (a)(2) and 2252 (a)(4)(B).

The hard drive located within Zinkiewicz' Sony VAIO laptop was produced in the country of Thailand. 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).

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 October 14, 2011 to April 4, 2012 Joseph F. Zinkiewicz distributed, received and possessed visual depictions of minors engaged in sexually explicit conduct in violation of Title 18, United States Code, Sections 2252(a)(4)(B) and (a)(2).

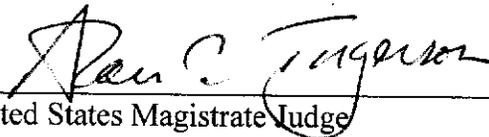
Prosecution of Zinkiewicz was approved by Assistant United States Attorney C. Rees. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NOT.



Eric Bonza  
Special Agent  
Department of Homeland Security  
Homeland Security Investigations

Subscribed and sworn before me this <sup>5<sup>th</sup></sup> day of <sup>April</sup> March 2012 at 8:45 <sup>a.m.</sup> hours.



United States Magistrate Judge