

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Case No. 12-cr-00363-WYD

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID PAUL MOE,

Defendant.

INDICTMENT

Count One: Distribution of Child Pornography (18 U.S.C. § 2252A(a)(2) and (b)(1))

Count Two: Receipt of Child Pornography (18 U.S.C. § 2252A(a)(2) and (b)(1))

Count Three: Possession of Child Pornography (18 U.S.C. § 2252A(a)(5)(B) and (b)(2))
Forfeiture Allegation

The Grand Jury charges:

COUNT ONE

Between on or about April 28, 2012 and on or about July 24, 2012, in the State and District of Colorado, DAVID PAUL MOE, defendant herein, knowingly distributed and attempted to distribute child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that has been mailed, and, using any means and facility of interstate and foreign commerce, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2252A(a)(2) and (b)(1).

COUNT TWO

Between on or about May 13, 2012 and on or about May 15, 2012, in the State and District of Colorado, DAVID PAUL MOE, defendant herein, knowingly received and attempted to receive child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), to wit: child pornography depicted in 2012-04 SAM_0033(HD anal girl).avi, that has been mailed, and, using any means and facility of interstate and foreign commerce, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2252A(a)(2) and (b)(1).

COUNT THREE

On or about July 24, 2012, in the State and District of Colorado, DAVID PAUL MOE, defendant herein, did knowingly possess any computer disk and other material that contained an image of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), and excluding the child pornography described in Count Two, that has been mailed, and shipped and transported using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that have been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2252A(a)(5)(B) and (b)(2).

FORFEITURE ALLEGATION

1. The allegations contained in Counts 1-3 of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 2253.

2. Upon conviction of any of the violations alleged in Counts 1-3 of this Indictment involving violations of 18 U.S.C. § 2252A, the defendant, DAVID PAUL MOE, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 2253, any and all of the defendant's right, title and interest in:

a) any visual depiction described in section 2251, 2251A, or 2252, 2252A, 2252B, or 2260 of Title 18, or any book, magazine, periodical, film or videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of Title 18, United States Code, Chapter 110;

b) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

c) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property.

3. The property subject to forfeiture, pursuant to 18 U.S.C. § 2253, includes, but is not limited to, the following items recovered from the defendant's residence: (1) Hewlett-Packard Omni All-In-One computer with serial number 4CS21102SP, (2) 1 TB Hitachi hard drive with serial number JP2940N01EVAIL, (3) Gateway computer with serial number XCV7321007818, (4) 250 GB Western Digital hard drive with serial number WCANKD616624, (5) 500 GB Seagate hard drive with serial number 6VMPH488, (6) 500 GB Western Digital hard drive with serial number WXD0A9950753, (7) 160 GB Western Digital hard drive with serial number WCAP97724690, (8) 500 GB Seagate hard drive with serial number S2W0FXFC, (9) 500 GB Seagate hard drive with serial number 5QM2G0CB, (10) 160GB Western Digital hard drive with serial number WXE407575317, and (11) optical storage disks, including but not

limited to compact disks (CDs) and digital versatile disks (DVDs).

4. If any of the property described in paragraphs 2 and 3 above, as a result of any act or omission of the defendant:

- a) cannot be located upon the exercise of due diligence;
- b) has been transferred or sold to, or deposited with, a third party;
- c) has been placed beyond the jurisdiction of the Court;
- d) has been substantially diminished in value; or
- e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) as incorporated by Title 18, United States Code, Section 2253(b), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property.

A TRUE BILL:

Ink signature on file in the clerk's office
FOREPERSON

JOHN F. WALSH
United States Attorney

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ATTORNEYS FOR THE UNITED STATES OF AMERICA

DEFENDANT: DAVID PAUL MOE

YOB: 1966

ADDRESS Denver, Colorado

COMPLAINT FILED? _____ Yes ___X___ No

If Yes, MAGISTRATE CASE NUMBER_12-mj-01100-KMT__

HAS DEFENDANT BEEN ___X___ Yes _____ No
If No, a new warrant is required

ARRESTED ON COMPLAINT?

OFFENSE(S): **Count 1:** Distribution and Attempted Distribution of Child Pornography, Title 18, United States Code, Section 2252A(a)(2) and (b)(1).
Count 2: Receipt and Attempted Receipt of Child Pornography, Title 18, United States Code, Section 2252A(a)(2) and (b)(1).
Count 3: Possession of Child Pornography, Title 18, United States Code, Section 2252A(a)(5)(B) and (b)(2).

LOCATION OF OFFENSE: Denver County, Colorado

PENALTY: **Count 1:** For first offense, NLT 5 years and NMT 20 years imprisonment, NMT \$250,000 fine, or both; supervised release of NLT 5 years and NMT life; \$100 Special Assessment. If defendant has a prior conviction under Title 18 Chapters 110, 71, 109A, or 117; Title 18 section 1591; or under Section 920 of Title 10 of the United States Code (Article 120 of the Uniform Code of Military Justice); or under the law of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment or transportation of child pornography, or sex trafficking of children, NLT 15 years and NMT 40 years imprisonment, NMT \$250,000 fine, or both; supervised release of NLT 5 years and NMT life; \$100 Special Assessment.
Count 2: For first offense, NLT 5 years and NMT 20 years imprisonment, NMT \$250,000 fine, or both; supervised release of NLT 5 years and NMT life; \$100 Special Assessment. If defendant has a prior conviction under Title 18 Chapters 110, 71, 109A, or 117; Title 18 section 1591; or under Section 920 of Title 10 of the United States Code (Article 120 of the Uniform Code of Military Justice); or under the law of any State relating to aggravated sexual abuse, sexual abuse, or abusive

sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment or transportation of child pornography, or sex trafficking of children, NLT 15 years and NMT 40 years imprisonment, NMT \$250,000 fine, or both; supervised release of NLT 5 years and NMT life; \$100 Special Assessment.

Count 3: For first offense, NMT 10 years imprisonment, NMT \$250,000 fine, or both; supervised release of NLT 5 years and NMT life; \$100 Special Assessment. If defendant has a prior conviction under Title 18 Chapters 110, 71, 109A, or 117; or under Section 920 of Title 10 (Article 120 of the Uniform Code of Military Justice); or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment or transportation of child pornography, NLT 10 years and NMT 20 years imprisonment, NMT \$250,000 fine, or both; supervised release of NLT 5 years and NMT life; \$100 Special Assessment.

Forfeiture Allegation

AGENTS: Special Agent Melissa Coffey
Special Agent Kyle O’Keeffe
ICE HSI

AUTHORIZED BY: Alecia Riewerts Wolak
Assistant U.S. Attorney
Lillian Alves
Special Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

X five days or less

THE GOVERNMENT

X will seek detention in this case

The statutory presumption of detention is applicable to this defendant.

OCDETF CASE: ___ Yes X No