

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO: 10-061
v.	*	SECTION: "R"
HERBERT POCHE	*	VIOLATION: 18 U.S.C. § 2252(a)(2)
	*	18 U.S.C. § 2253
	*	
	*	
	*	

F A C T U A L B A S I S

Should this matter proceed to trial, both the government and the defendant, **HERBERT POCHE**, do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crime to which the defendant is pleading guilty and that the government would prove the following beyond a reasonable doubt at trial:

The government would show that at all times mentioned in the Bill of Information, the defendant, **HERBERT POCHE**, was a resident of the Eastern District of Louisiana, living and working in Jefferson, Louisiana.

The government would present evidence and testimony that Special Agents from the U. S. Department of Homeland Security Immigration and Customs Enforcement (ICE) received information that **HEBERT POCHE** had purchased access to child pornography websites. On or about June 8, 2009, ICE agents conducted a consensual interview of the defendant at his place of

employment located at 104 Iris Avenue in Jefferson, Louisiana. Agents would testify that during their interview, the defendant provided written consent to allow the agents to search his computers. The agents recovered two Dell Dimension computers one of which was found to contain images of child pornography.

The government would establish through testimony and documentary evidence that **POCHE** knowingly used his computer to search for, download, and save images of child pornography. Specifically, the government would introduce records that **POCHE** subscribed to websites that contained child pornography and that he knowingly received and possessed images of child pornography. Further, the evidence and testimony would establish that a forensic search of **POCHE's** computer media revealed approximately 77 videos depicting the sexual victimization of children including prepubescent children being vaginally and anally penetrated.

Further, the government would introduce post-*Miranda* statements of the defendant wherein **POCHE** admitted to federal agents that he knowingly purchased access to child pornography websites and that he downloaded and saved images of child pornography. According to **POCHE**, he had viewed child pornography earlier in the week and only viewed images of child pornography while at his business. **POCHE** told investigators that he frequently deleted his temporary files on his computer because he knew pornographic images and videos of children are illegal.

Forensic evidence consisting of medical testimony, law enforcement officers, and supporting documentation would establish that some of the child victims depicted in the images possessed by **POCHE** were of real, identifiable victims, less than the age of eighteen (18) at the time the child pornography was created.

Testimony would establish that some of the child victims depicted in the materials possessed by **HERBERT POCHE** were of prepubescent children less than 18 years of age; to wit: less than twelve (12) years old and that the images of the child victims were engaged in “sexually explicit conduct” as defined in Title 18, United States Code, Section 2256. These images included pictures of adult males penetrating minor victims. All of the images of child pornography possessed by the defendant would be introduced through the testimony of ICE agents.

Further, the government would present evidence that would establish that the images of child pornography had been transported in interstate and foreign commerce via computer.

Further, the government would show through testimony and documentary evidence that the equipment used by the defendant to acquire the child pornography was transported in interstate or foreign commerce.

HERBERT POCHE
Defendant

DATE

CATE L. BARTHOLOMEW
Counsel for Defendant

DATE

BRIAN M. KLEBBA
Assistant United States Attorney

DATE