

FILED

UNITED STATES DISTRICT COURT

2008 JUL -2 PM 1:22

DISTRICT OF

Vermont

BY CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA

V.

RAYMOND GAGNON

CRIMINAL COMPLAINT

Case Number: 2:08 mj-58-1

(Name and Address of Defendant)

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about _____ in Orange County, in the _____ District of Vermont defendant(s) did,

(Track Statutory Language of Offense)

knowingly conceal, alter and destroy tangible objects and evidence with the intent to impede, obstruct and influence the investigation of a matter within the jurisdiction of the United States

in violation of Title 18 United States Code, Section(s) 1519.

I further state that I am a(n) Special Agent of the FBI and that this complaint is based on the following facts:

Official Title

See attached affidavit.

Continued on the attached sheet and made a part of this complaint: ☒ Yes ☐ No

Daniel G. Rachek
Signature of Complainant

Daniel G. Rachek, Special Agent, FBI
Printed Name of Complainant

Sworn to before me and signed in my presence,

July 2, 2008
Date

Jerome J. Niedermeier U.S. Magistrate Judge
Name of Judge Title of Judge

at

Burlington VT
City State

[Signature]
Signature of Judge

AFFIDAVIT

I, Daniel Rachek, hereby depose and state as follows:

1. I have served as a Special Agent with the Federal Bureau of Investigation for 13 years. During that time, I have participated in the investigation of a wide variety of criminal offenses, including kidnaping and child exploitation.

2. This affidavit is offered to demonstrate that probable cause exists to believe that RAYMOND GAGNON ("GAGNON") has obstructed justice by concealing, altering and destroying tangible objects and evidence with the intent to impede, obstruct, and influence the investigation of a matter within the jurisdiction of the United States, in violation of 18 U.S.C. § 1519. This affidavit is based on my personal participation in the investigation, as well as reports made to me by other FBI Special Agents and other law enforcement authorities, including the Vermont State Police. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not set forth all of the facts and information obtained during the course of the investigation.

3. Since June 26, 2008, the Federal Bureau of Investigation has been jointly investigating with the Vermont State Police, the disappearance of Brooke Bennett, age 12 ("Bennett"). This investigation has included offenses involving (1) use of a facility or instrumentality of interstate or foreign commerce in committing the offense of kidnaping, and conspiracy to do the same, in violation of 18 U.S.C. §§ 1201(a)(1) and 1201(c); (2) use of a facility or means of interstate or foreign commerce to persuade, induce, entice or coerce an individual who has not attained the age of 18 years to engage in prostitution or a sexual act for which any person can be charged with a criminal offense, in violation of

18 U.S.C. § 2422; (3) the manufacture, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2551, 2252A; and (4) interstate travel with the intent to engage in illicit sexual conduct, in violation of 18 U.S.C. § 2423(b).

A. The Disappearance of Brooke Bennett

4. On June 25, 2008 at approximately 21:00 hours, the Vermont State Police was informed of a missing juvenile, Bennett, of Braintree, Vermont. Initial investigation conducted by the Vermont State Police revealed that Bennett was last seen on June 25, 2008 at approximately 09:20 hours at the Cumberland Farms located on Route 12 in the Town of Randolph. Bennett was dropped off by her uncle, MICHAEL JACQUES, age 42 (DOB 3/11/66) ("JACQUES"), who told Vermont State Police investigators that he believed that Bennett was going to be picked up by a friend and then driven to visit the friend's sick relative at Dartmouth Hitchcock Medical Center.

5. [REDACTED] On June 25, 2008, JUVENILE 1 was interviewed by VSP Detectives. JUVENILE 1 initially told the police the following:

- She and JACQUES drove Bennett to the Cumberland Farms, Randolph, Vermont and dropped her off at approximately 9:00 am to 9:15 am. JACQUES purchased a cup of coffee at Cumberland Farms but it tasted so bad that he threw it away. After leaving Bennett at Cumberland Farms, JACQUES and JUVENILE 1 drove to the Dunkin Donuts and purchased another cup of coffee. The last time that she saw Bennett was at Cumberland Farms.

6. Subsequent investigation by the VSP Detectives revealed that JUVENILE 1 and JACQUES did not go to Dunkin Donuts. She was interviewed again on June 26, 2008 and admitted to a VSP Detective that she had been untruthful about going to Dunkin

Donuts and had been told by JACQUES to lie to the police because it would look bad if he just dropped off Bennett and left her at the Cumberland Farms. JUVENILE 1 claimed the rest of the story was true.

B. Brooke Bennett's MySpace Page

7. On June 25, 2008, shortly after Bennett was reported missing, VSP Detectives went to JACQUES' residence and spoke with JACQUES. JACQUES advised the VSP Detective that he required all his children to provide him with their passwords to their MySpace, including Bennett, his niece, who often used a computer at JACQUES' residence. JACQUES further told the VSP Detective that, when Bennett had not returned home, JACQUES logged onto Bennett's MySpace account and discovered that Bennett had accessed the account sometime after midnight on June 25, 2008. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] JACQUES [REDACTED] showed the VSP Detective the following posting:

Just 4 Skittlemeup

I know i promised never 2 post u on this page but i know u read both of mine all the time. I don't care use my other one at my cousins because my aunt and uncle gotta know my passwords and stuff and get freaked. Nobody but u and me can know about the other one! I do want to see you in the morning so please meet me.... u know where. I think i have a good plan to sneak around this. My mom will kill me but then I'm going 2 Texas and she will get over it. Sorry I was such a baby last time. Promise u not this time!! U can bring ur friend but u have 2 admit that's pretty weird.

I cant wait 2 see what u got me 4 my b-day surprise!! Ur so good 2 me when we r able 2 b together. I hate that I wont see u till ur classes start again in the fall but i

love that we can b together one more time. It just might last me for the summer. They say ur first is the one u always want and that's u baby! This girl don't sneak out of her house at 2 in the morning 4 just any man! OMG if only people knew me 4 real!

See you there!

8. As set forth below, VSP and Internet Crimes Against Children Task Force investigators and forensic examiners believe this posting, and others, were made from JACQUES laptop computer. In addition, as set forth below, law enforcement believes that this posting was made to make it appear that Bennett was abducted by someone she met on the internet or communicated with on the internet.

9. On June 26, 2008, VSP Detective Brian Penders and Internet Crimes Against Children ("ICAC") Task Force member Jonathon Rajewski, went to the JACQUES residence [REDACTED] in the Town of Randolph Center, Vermont. While at the residence JACQUES advised that he had a laptop computer and desktop computer at the residence. JACQUES told the police that the laptop computer was a "work laptop," belonging to his employer, Thermadyne. Sgt Penders obtained recorded verbal consent from Cary Levitt, of Thermadyne to conduct a forensic preview of the laptop and search it for evidence involving the disappearance of Bennett. Sgt Penders also obtained written consent from JACQUES to conduct a forensic preview of the laptop and search it for evidence involving the disappearance of Bennett. JACQUES and Levitt later agreed to allow the laptop to be transported to the Computer Forensics Lab in Burlington where a forensically correct image would be obtained. Sgt Penders identified the laptop as a Dell, model PP05XA bearing serial number 1SSSSC1.

10. As set forth in paragraph 6 of this affidavit, on the day BENNETT was reported missing to the VSP, JACQUES directed a VSP Detective to a posting on BENNETT's MySpace page, which suggested that BENNETT had left to meet someone she had met online. On June 29, 2008, Forensic Examiners recovered data from JACQUES' laptop computer showing that the MySpace posting set forth in paragraph 6 of this affidavit was initially posted from JACQUES' laptop computer on June 24, 2008 at 11:40:35 p.m EST. This forensic information is consistent with information provided by MySpace. Data recovered from the JACQUES' laptop computer further reveals that this posting was edited and reposted from that computer on June 24, 2008 at 11:52:37 p.m EST and again on June 25, 2008 at 10:36:40 p.m. During this last log in, the time of the posting was manually changed to June 25, 2008 at 7:46 a.m.

11. Records obtained from MySpace provided to forensic examiners show the following. The only IP address to log onto Bennett's MySpace page after 10:36:40 p.m. on June 25, 2008 (other than law enforcement) was IP 72.177.143.240, which is registered to Kevin Grosenheiden of San Antonio, Texas. There were two log ins from IP 72.177.143.240; one log in at 8:18:39 p.m. PST the second at 8:25:56 p.m. PST. Since the last log by JACQUES' computer, the time on the blog was manually changed to June 25, 2008 at 11:46 a.m PST, suggesting that the blog was edited from IP 72.177.143.240.

12. GAGNON, a former step father to Bennett, and a friend of JACQUES, rents a room from Grosenheiden at [REDACTED] San Antonio, Texas.

13. At approximately 1:00 a.m. on June 26, 2008, JACQUES called the VSP Detective who had visited his residence several hours before and asked the VSP Detective about the course of the investigation.

C. Statements Made by JUVENILE 1 on June 29

14. On the afternoon of June 29, 2008 investigators again interviewed JUVENILE 1. During this interview, she gave a number of conflicting statements and initially continued to deny any role Bennett's disappearance, but after being confronted by some of the emails described above, she admitted, among other things, the following:

- she had participated in helping JACQUES get Bennett to JACQUES' residence on June 25th after Bennett went to the Cumberland Farms.
- that she had been involved in sex with JACQUES since she was nine years old. She said that when she was nine she got a phone call and a note under her pillow that said that she had been chosen to be in a program for sex called "Breckenridge." She was told that her "trainer" was [REDACTED] JACQUES. She further explained the "Breckenridge" program. She said that in order to graduate she had to attain 75% on how you perform. She said that she was now at 50%, and that men tell her what to work on. She received phone calls and emails from "Breckenridge" with directions, including directions about sex.
- that after dropping Bennett off at the Cumberland Farms on June 25, she and JACQUES soon picked up Bennett, who had been falsely told that she would be going to party. JUVENILE 1 said that she understood that Bennett would be taken into the "Breckenridge" program that day, and that she would have sex with adult males. She said that she, Bennett, and JACQUES then went to JACQUES' home, where the two girls watched television for a while. According to JUVENILE 1, JACQUES eventually asked Bennett to go upstairs in the house with him. JUVENILE 1 did not see Bennett again. She soon left the home at JACQUES direction. She was driven away by her "boyfriend" JUVENILE 2, who did not go into the house.
- she was directed to lie about what happened that day by JACQUES.

- in June 2007, she was forced to have a sexual encounter with GAGNON, which included oral and vaginal sex.

D. Statements of Raymond GAGNON

15. On June 30, 2008 and July 1, 2008, GAGNON was interviewed by members of the Vermont State Police and the FBI. GAGNON admitted that he rents a room for residential purposes from Kevin Grosenheider at [REDACTED] San Antonio, Texas. He also admitted that on June 25, 2008, he accessed Bennett's MySpace page from a laptop computer located at [REDACTED] after being given log in information (user name and password) from JACQUES on June 25, 2008. He advised that when he accessed the account, he changed the user name and password to the account. He denied changing any blog posting information.

16. GAGNON further admitted that he has downloaded a vast amount of child pornography from the internet, including approximately five years worth of "Russian" type child pornography, and that he keeps it on his laptop computer and on hard drives, which were stored in a safe at his residence in Texas. GAGNON has sexual images of children as young as five years of age. GAGNON also admitted that he has still photographs of JUVENILE 1 engaged in sexual acts with her minor boyfriend, and that he had received these photographs from JACQUES by email. He also stored these photographs in his safe. GAGNON also admitted to corresponding by email with JACQUES.

17. GAGNON also told law enforcement that in June 2007, while he was staying at a residence in South Royalton, JACQUES and JUVENILE 1 came to the residence and

that he and JACQUES engaged in sex with JUVENILE 1. According to GAGNON, while JACQUES was having vaginal intercourse with JUVENILE 1, she reached out for him and touched his penis and then inserted it in her mouth. He denied having vaginal intercourse with JUVENILE 1.

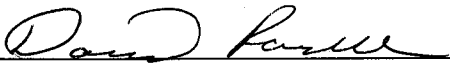
18. GAGNON also told law enforcement that he called Grosenheider at approximately 4:30 a.m. on June 30, 2008 and instructed Grosenheider to dispose of the safe in his residence.

E. Other Information

19. On July 1, 2008, FBI agents from the San Antonio Division located and interviewed Grosenheider. Grosenheider advised that he had received a telephone call from GAGNON at approximately 3:00 a.m. on June 30, 2008 and that GAGNON had instructed him to dispose of his safe. Grosenheider said that he did not know what the contents of the safe but assumed it was child pornography. Grosenheider told the FBI that he threw the safe in a dumpster at an apartment complex located at 8840 Timber Path, San Antonio, Texas near his residence. A search of the dumpster failed to locate the laptop.

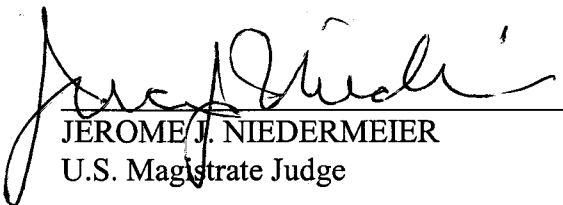
20. Analysis of the telephone toll records for JACQUES' cellular phone, 802- [REDACTED], shows that between 9:26 p.m. on June 25, 2008 (shortly after Bennett was reported missing) and 11:14 p.m. on June 25, 2008 there were four calls between 802- [REDACTED] and 210- [REDACTED] (GAGNON's cell phone). A call about one hour later – at 12:24 a.m. on June 26, 2008 – lasted approximately 23 minutes. Another call at 12:59 a.m. on June 26, 2008 lasted approximately 24 minutes.

Dated at Burlington, in the District of Vermont, this 2nd day of July 2008.



DANIEL RACHEK
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

Sworn to and subscribed before me this 2nd day of July 2008.



JEROME J. NIEDERMEIER
U.S. Magistrate Judge