AFFIDAVIT OF SPECIAL AGENT CAITLIN E. MOYNIHAN

I, Caitlin E. Moynihan, being duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement, Homeland Security Investigations ("HSI"), and am assigned to the office of the Special Agent in Charge, Boston, MA. I have been a Special Agent since October 2009. Prior to being assigned to the SAC Boston Office, I was assigned to the Resident Agent in Charge Office in Burlington, Vermont. As part of my duties, I am authorized to investigate violations of the laws of the United States, including criminal violations relating to child exploitation, child pornography, coercion and enticement, and transportation of minors, including but not limited to violations of 18 U.S.C. §§ 2422, 2423, 2251, and 2252A. I have received training in the investigation of child exploitation offenses, including child pornography, and have had the opportunity to observe and review examples of child pornography (as defined in 18 U.S.C. § 2256).

2. I submit this affidavit in support of an application for criminal complaint charging Oliver SMITH, born 1975, of Sutton, Massachusetts, with possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B) (the "Subject Offense").

3. I am familiar with the facts and circumstances of this investigation from my own personal participation and from oral and written reports made to me by agents of HSI and other federal, state, and local law enforcement agencies.

4. This Affidavit is submitted for the limited purpose of establishing probable cause to believe that SMITH committed the Subject Offense. Accordingly, I have not included each and

every fact known to me and other law enforcement officers involved in this investigation. I have set forth only the facts that I believe are needed to establish the requisite probable cause.

STATEMENT OF PROBABLE CAUSE

A. Yahoo CyberTip Reports to NCMEC

5. The National Center for Missing and Exploited Children ("NCMEC") is a private, nonprofit organization that, among other things, tracks missing and exploited children, and serves as a repository for information about child pornography. Companies that suspect child pornography has been stored or transmitted on their systems can report that information to NCMEC in a CyberTip.

6. On July 27, 2020, NCMEC received two CyberTip reports from Yahoo Inc.! ("Yahoo") indicating that a Yahoo email account (hereinafter "Yahoo Email Account") was used on multiple dates to transmit numerous images of nude or partially clothed children.[1] The CyberTips further reported that the name of the subscriber for Yahoo Email Account was "Oliver Smith," and included a user-provided phone number and an alternate email address at Gmail.com (hereinafter the "Gmail Account").

7. On July 30, 2020, NCMEC received another CyberTip from Yahoo indicating that SMITH appeared to be a U.S. citizen working as a preschool teacher in Sweden, and that his students would likely be the same age as the children depicted in the CyberTips.

8. Given SMITH's suspected presence in Sweden, NCMEC notified the ICE Field Office (Europol) of the CyberTips, and law enforcement in Sweden were thereafter notified.

[1] The name of the email account was specified by Yahoo and is known to law enforcement. Generic terms are used throughout this affidavit to preserve the integrity of the investigation and privacy interests.

B. Search Warrant at SMITH's Swedish Residence and SMITH's Statements

9. On August 11, 2020, the Swedish National Police executed a search warrant at SMITH's residence in Stockholm. Swedish National Police personnel met SMITH as he prepared to depart for work and transported SMITH to a police station where he was interviewed.

10. During that interview, SMITH admitted that he was in possession of hundreds of images depicting child sexual abuse that he had downloaded from the Internet for "study purposes." According to SMITH, he was "studying" children's sexuality. He admitted that he knew the subject is controversial and stated that was the reason for him to keep his study secret. SMITH told investigators that he is sexually attracted to adult females and has a "special interest" in watching women urinate. SMITH was released after the interview concluded.

11. During execution of the search warrant, the Swedish National Police seized several digital storage devices, including three mobile phones, one tablet, two hard drives, and two computers. Investigators subsequently searched the devices and located numerous files depicting child pornography, including video files depicting preschool-age children urinating. Further investigation revealed that SMITH had recorded children who attended the preschool where he worked, including the children's genitalia as they urinated. SMITH later provided the names of the children to the Swedish National Police.

C. SMITH'S Return to the United States

12. On August 27, 2020, SMITH – a citizen of both the United States and Sweden – departed Europe and flew from Amsterdam to Boston.

13. Upon arrival in the United States, SMITH provided documents to Customs and Border Protection indicating that he would be residing at an address in Sutton, Massachusetts (the "Sutton Residence").

D. HSI Boston's Investigation of SMITH

14. On or about October 13, 2020, HSI Attaché Frankfurt notified HSI Boston of the Swedish investigation. HSI Boston commenced its own investigation.

15. On October 23, 2020, the Court issued a search warrant for the Yahoo Email Account. On October 27, 2020, Oath Holdings Inc. (formerly Yahoo) provided a response to the search warrant. Included in the response was an email sent on July 6, 2019, from the Gmail Email Account to the Yahoo Email Account titled "Fun pictures;" this email contained multiple images, at least one of which depicts two prepubescent boys, approximately four years old. The boys are both nude and pictured standing outdoors. One of the boys has his hands wrapped around his penis. The second boy has one hand in his mouth and the other on his hip, and his penis is displayed to the camera.

16. On October 29, 2020, the Court issued a search warrant for the Gmail Account, which was still active. On or about November 3, 2020, Google provided records that identified the subscriber of the Gmail Account as "Oliver Smith." Also provided in the Google search warrant return was the July 6, 2019 email with child pornography sent from the Gmail Account to the Yahoo Email Account described above, indicating that at least as of the date of the Google return, SMITH still had access to this child pornography.

E. The November 15, 2020 Search and Interview

17. On November 14, 2020, the Court issued warrants authorizing the search of SMITH, SMITH's vehicle and the Sutton Residence.

18. On November 15, 2020, HSI agents, with the assistance of local law enforcement, executed those warrants. SMITH was present in the residence and agreed to speak with agents after agents advised him of his *Miranda* rights. During that recorded interview:[2]

a. SMITH confirmed that he had video recorded children at his preschool in Sweden as they urinated. He acknowledged that he put his cell phone in his pocket in order to record them surreptitiously, and that he wanted to "document how I kind of encouraged them to do it themselves." He further stated that he wanted the videos as a "memory" of his interactions with the children.

b. SMITH confirmed that he had emailed himself images that constitute child pornography while in Sweden.

c. SMITH estimated that he had "about 300" images of interest to Swedish law enforcement at the time of the Swedish search warrant in August 2020. SMITH stated that he learned a lot from the experience in Sweden and claimed that what he did was mostly for his own studies, as he tried to understand children's "sexuality," and because he wanted to know what was legal and what was illegal. He stated that he did not want to see "the hardcore stuff . . . again," but admitted that he did not report the material to (Swedish) law enforcement and that, while he considered "discard[ing]" the depictions he possessed, he instead saved them.

d. SMITH explained that, apart from the videos he produced, he obtained images and videos online. He stated, "I like seeing the naked human body. That's why I went into the nudist sites."

[2] Unless otherwise indicated, all statements set forth below are summary in nature.

e. SMITH said that he currently had images and videos of children on a toilet on a USB drive / memory card at the Sutton Residence. He described them as "cute" and opined, "since it's not hurting them, I have them for the beauty of it."

f. SMITH further explained that he got these images and videos off the web and put them on the USB drive / memory stick while in the United States, after he had returned from Sweden.

19. During execution of the search warrants, agents seized four devices: a Hewlett Packard laptop, a Sony Memorex card, and two cell phones. All items seized pursuant to the warrant have been transported to the HSI forensic lab. Analysis remains ongoing.

20. A preliminary forensic examination of the Sony Memorex card revealed images and videos of suspected child pornography, consistent with what SMITH described during his interview. These images and videos were located in a folder titled "Cute children".

21. Included among the child pornography files were the following videos and images:[3]

a. [redacted] This video, approximately 7 minutes and 50 seconds in length, is a surreptitious recording of a squat toilet. It is edited to show approximately 12 prepubescent children using the toilet, focused on their genitals and is set to music. [redacted]

[3] Given the health concerns posed by in-person interactions during the COVID-19 Pandemic, I am not providing copies of these videos and images to the Court. Nevertheless, the description of the files here are specific as to the age of the alleged child and the nature of the sexually explicit conduct (*i.e.*, lascivious exhibition) that it depicts. *See United States v. Burdulis*, 753 F.3d 255, 261 (1st Cir. 2014); *United States v. Syphers*, 426 F.3d 461, 467 (1st Cir. 2005).

[redacted]

Metadata associated with the file shows that it was "last accessed" on October 5, 2020.

b. [redacted] This surreptitiously recorded video is approximately 1 minute and 38 seconds in length and depicts a nude prepubescent female child, approximately 6 to 8 years old, in what appears to be a public bathroom or locker room. [redacted] Metadata associated with the file shows that it was "last accessed" on September 8, 2020.

c. [redacted] This image file depicts a male and female child, approximately two to three years old, sitting on Baby Bjorn portable potty chairs in what appears to be a house. [redacted] Metadata associated with the file shows that it was "last accessed" on September 8, 2020.

d. [redacted] This image file depicts a female child, approximately two to three years old, sitting on a toilet. [redacted] Metadata associated with the file shows that it was "last accessed" on September 8, 2020.

CONCLUSION

22. Based on all of the foregoing information, I submit that there is probable cause to believe that on or about November 15, 2020, in the District of Massachusetts, SMITH knowingly possessed material that contained one or more images of child pornography, as defined in Title 18, United States Code, Section 2256(8), that involved a prepubescent minor and a minor who had not attained 12 years of age, and that had 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 had been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, in violation of 18 U.S.C. § 2252A(a)(5)(B).

Sworn to under the pains and penalties of perjury,

Caitlin E Moynihan 11/23/20

Special Agent Caitlin E. Moynihan
Homeland Security Investigations

Sworn and subscribed before me telephonically pursuant to Fed. R. Crim. P. 4.1 this 23rd day of November 2020. 4:37 p.m.

David H. Kennedy

HONORABLE DAVID H. KENNEDY
UNITED STATES MAGISTRATE JUDGE