

File No.

STATE OF NORTH CAROLINA

WAKE County

In The General Court Of Justice
District/Superior Court Division

SEARCH WARRANT

IN THE MATTER OF

1999 Toyota 4-Runner, VIN [REDACTED]

Date Issued

06/23/2009

Time Issued

11:20

AM PM

Name Of Applicant

Lt. C. W. Hagwood

Name Of Additional Affiant

Name Of Additional Affiant

RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received

06/23/2009

Time Received

11:30

AM PM

Date Executed

06/23/2009

Time Executed

13:00

AM PM

I made a search of

1028 Blue River Farm Rd, Raleigh North Carolina

1999 TOYOTA 4-Runner

VIN [REDACTED]

Date

6/23/09

Signature

B. Squires

Deputy CSC Assistant CSC CSC
 Magistrate District Ct. Judge Superior Ct. Judge

_____ as commanded.

I seized the items listed on the attached inventory.

I did not seize any items.

This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

Signature Of Officer Making Return

[Signature]

Department Or Agency Of Officer

CANLER PD

Incident Number

09-14664

Date

6/24/09

Time

1:58

AM PM

Signature

[Signature]

Deputy CSC Assistant CSC
 Clerk Of Superior Court

This Search Warrant was returned to me on the date and time shown below.

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

I, Christopher W. Hagwood, being duly sworn, do hereby depose and say:

1. I am a citizen of the United States of America and a resident of Wake County in North Carolina. I have been employed as a Police Officer since 1988.
2. I attended Basic Law Enforcement Training from September through December of 1988 at the NC Justice Academy. Training at the Justice Academy included numerous hours in the investigation of violations of state and federal laws. After graduating from the Justice Academy, I was assigned to the patrol division of the Garner Police Department. In 1994, I was promoted to Lieutenant. In January of 2009, I was transferred to the Investigations Division where I supervise criminal investigations of all types.
3. As a sworn officer of the Garner Police Department, this affiant is authorized to investigate crimes involving the sexual exploitation of children pursuant to North Carolina General Statute (NCGS) 14, 190.16, 14-190.17, and 14-190.17A. As a police officer, this affiant has previously been involved in computer related investigations, which include the use of subpoenas, search warrants and computer examinations. This affiant has successfully completed training in the seizure of computer related media and in the investigation of child pornography and sexual crimes against children.
4. NCGS 14-190.17, known as Second Degree Sexual Exploitation of a Minor, make it unlawful for a person if, knowing the character or content of the material he: (1) Records, photographs, films, develops, or duplicates material that contains a visual representation of a minor engaged in sexual activity; or (2) Distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity.
5. NCGS 14-190.13, known as Definitions for Certain Offenses Concerning Minors, provides the following definitions: NCGS 14-190.14, displaying material harmful to minors; NCGS 14-190.15, disseminating or exhibiting to minors harmful material or performances; NCGS 14-190.16, first degree sexual exploitation of a minor; NCGS 14-190.17, second degree sexual exploitation of a minor; NCGS 14-190.17A, third degree sexual exploitation of a minor; NCGS 14-190.18, promoting prostitution of a minor; and NCGS 14-190.19, participating in prostitution of a minor.
 - a. Harmful to Minors. - That quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:
 - a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and
 - b. The average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and
 - c. The material or performance lacks serious literary, artistic, political, or scientific value for minors.
 - b. Material. - Pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words.
 - c. Minor. - An individual who is less than 18 years old and is not married or judicially emancipated.
 - d. Prostitution. - Engaging or offering to engage in sexual activity with or for another in exchange for anything of value.
 - e. Sexual Activity. - Any of the following acts:
 - a. Masturbation, whether done alone or with another human or an animal.

- b. Vaginal, anal, or oral intercourse, whether done with another human or with an animal.
- c. Touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female.
- d. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a person clad in undergarments or in revealing or bizarre costume.
- e. Excretory functions; provided, however, that this sub-division shall not apply to G.S. 14-190.17A.
- f. The insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.
- g. The lascivious exhibition of the genitals or pubic area of any person.
- f. Sexually Explicit Nudity. - The showing of:
 - a. Uncovered, or less than opaquely covered, human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast, except as provided in G.S. 14-190.9(b); or
 - b. Covered human male genitals in a discernibly turgid state. (1985, c. 703, s. 9; 1989 (Reg. Sess., 1990), c. 1022, s. 2; 1993, c. 301, s. 2.)

The information contained within this affidavit is based upon information I have gained from my investigation, my personal observations, my training and experience, and/or information related to me by other law enforcement officers and/or agents. Since this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth the facts that I believe are necessary to establish probable cause to believe that evidence of violations of North Carolina General Statutes (NCGS) 14-190.17 and 14-190.17A is located in a 1999 Toyota 4-Runner, VIN [REDACTED] for the listed items. I request that this SEARCH WARRANT be issued so I may investigate this matter.

FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE

- 6. On 6/22/2009 a Wake County Sheriff's Deputy investigated a vehicle parked in a newly constructed cul-de-sac, of which is not yet occupied by homes and known to be an area for persons engaging in criminal activity. When the Deputy approached the vehicle he found it to be occupied by a 41 year male, Jonathan Leigh Sullivan, and a [REDACTED] male child, of who were sitting in the back seat. The Deputy spoke with the male and noticed inconsistencies with his statement as to why he was there. He then asked for Garner officers to assist in the investigation.
- 7. Garner Police Officers White and Moore arrived and Officer White spoke with Mr. Sullivan. Officer White asked him why he was there and he stated that he had dropped his daughter off at the Eagle Ridge Golf Club. He further inquired about his daughter, as to how he could make contact with her and Officer White also noticed inconsistencies with his statements. Officer White further observed a camera, computer and binoculars in the vehicle. He asked to see the camera and Mr. Sullivan granted him consent to look at the camera and the photographs therein. Officer White powered on the camera and the first photo was that of a [REDACTED] that appeared to be from a child or young adolescent. Other photographs were that of the vehicle, which appeared to be of the vehicle in its current position and location and additional nude photographs of a second female of unknown age.
- 8. Officer Moore and White had made arrangements for Officer White to go to the Eagle Ridge Club House and locate his daughter to substantiate him being there. Officer Moore checked on the [REDACTED] vehicle and noticed a large mass under a brown tarp, which appeared to be that of a person, located in the hatch area of the vehicle. He lifted a corner of the tarp in order to do a safety check and located a young female, later identified as [REDACTED]. Officer Moore further observed that the female was getting dressed. He asked Mr. Sullivan if that was his daughter in the back under the tarp and he replied, "I don't know, I dropped her off at the club house".

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9. Sgt. Smith arrived on scene and questioned [REDACTED] as to why she was there and why she was undressed. She initially stated that she was "on her period and had soiled herself". Sgt. Smith further inquired about why she was naked and [REDACTED] said she was lying and that she was not in fact on her period. She told Sgt. Smith that she had no undergarments on under her dress.
10. [REDACTED] then shifted her attention to Mr. Sullivan and stated to Sgt. Smith that she did not want him to get in trouble or arrested. She further asked Sgt. Smith not to tell her mother that she was in the car, naked with Mr. Sullivan. She stated to Sgt. Smith that she and Mr. Sullivan come to the location all the time in that it is their "quiet place".
11. [REDACTED]
12. When questioned about the incident, Mr. Sullivan admitted to Inv. Gay of the Garner Police that he was taking pictures of [REDACTED] while she was naked when this incident began.
13. Mr. Sullivan told Inv. Gay that he had more computers at his home, [REDACTED] Raleigh North Carolina, with additional images of pornography on those computers.
14. Based on my training and experience, it is common for individuals to transfer digital images from cameras to computers for storage and dissemination.
15. The affiant knows from training and experience that searches and seizures of evidence from computers require agents to seize most or all computer items (hardware, software, passwords and instructions) to be processed later by a qualified computer expert in a laboratory or other controlled environment. Computer storage media which can be accessed by computers to store or retrieve data or images of child pornography can store the equivalent of thousands of pages of information. This storage medium includes but is not limited to:
16. Floppy disks, flash memory cards, compact flash cards and other similar storage medium, USB mini storage devices, micro hard drives, external hard drives internal hard drives, magnetic tapes, DVD disks, CD-ROM disks or other magnetic, optical or mechanical storage.
17. The affiant knows from training and experience that users may store information or images in random order with deceptive file names, which requires a forensic examination to examine all the stored data to determine whether it is included in the warrant. This sorting process renders it impractical to attempt this kind of data search on site.
18. The affiant knows from training and experience that searching computer systems for criminal evidence requires experience in the computer field and a properly controlled environment in order to protect the integrity of the evidence and recover even hidden, erased, compressed, password-protected, or encrypted files. Since computer evidence is extremely vulnerable to tampering or destruction (both from external sources or from destructive code imbedded in the system as a "booby trap"), a controlled environment is essential to its complete and accurate analysis; however, Agents assigned to the North Carolina State Bureau of Investigation, Computer Crime Unit, who are trained as computer investigators, may conduct a preview examination of the suspect's computer on-site using hardware and software that will not alter or change any potential evidence located on the suspect's computer.
19. The affiant knows from training and experience that in order to fully retrieve data from a computer system, the computer forensic examiner needs all magnetic storage devices as well as the computer. In cases like this, where the evidence consists partly of graphics files, the input and output devices connected to the computer may be seized as well. The peripheral computer devices should included, but are not limited to computer keyboards, mice, scanners, printers, monitors, network communication devices, modems and external or connected devices used for accessing computer storage media. The computer related storage media is essential to show the nature and quality of the graphic images which the system could produce. In addition, the computer forensic examiner needs all the system software to include but is not limited to the operating system, hardware device drivers, and any application or software which may be used to create the data, whether stored on hard drives or on external media, as well as documentation, items containing or displaying passwords, access codes, usernames or other identifiers necessary to examine or operate items, software or information seized or to activate specific equipment or software.

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20. The affiant knows from training and experience that persons trading in, receiving, distributing or possessing images involving the exploitation of children or those interested in the actual meeting and exploitation of children often communicate with others through correspondence or other documents, whether digital or written, which could identify the origin of the images as well as provide evidence of a person's interest in child pornography or child sexual exploitation.
21. The affiant knows from training and experience that files related to the sexual exploitation of children found on computers are usually obtained from the Internet using application software which often leaves files, logs or file remnants which would tend to show the exchange, transfer, distribution, possession or origin of the files.
22. The affiant knows from training and experience that computer software and/or hardware exists which permits more than one computer to share a common IP address. The seizure and examination of these items can reveal information about the authorized or unauthorized use of the Internet connection at the residence.
23. The affiant knows from training and experience that computers used to access the Internet usually contain files, logs or file remnants which would tend to show ownership and use of the computer as well as ownership and use of Internet service accounts used for the Internet access.
24. The affiant knows from training and experience that search warrants of residences involved in computer related criminal activity usually produces items that would tend to establish ownership or use of computers and ownership or use of any Internet service accounts accessed to obtain child pornography to include credit card bills, telephone bills, correspondence and other identification documents.
25. The affiant knows from training and experience that search warrants of residences usually reveals items that would tend to show dominion and control of the property searched, to include utility bills, telephone bills, correspondence, rental agreements and other identification documents.
26. The affiant knows from training and experience that those who use chat programs to communicate with children with the intent of meeting them to have sex also can save those chats to an archive file and that archive file can be retrieved and viewed by the use of forensic and specialized software if the computer has not been set to automatically delete those archive files.
27. The above information has led the affiant to believe that probable cause exists to believe that the items listed in the items to be seized section of the search warrant application are evidence of the sexual exploitation of children by means of the possession and attempted distribution of child pornography in violation of North Carolina General Statutes. Through the affiant's training and experience working in involving child pornography the affiant has learned and believes that this type of contraband is typically collected, stored and distributed by individuals that trade in this type of illegal activity. This type of contraband is not "used up" as other types of contraband can be such as alcohol or drugs. This type of evidence is usually stored in a manner that is easily accessible to the subject viewing these images and is usually stored on a computer's hard drive or some other type of accessible electronic storage media. For these reasons contraband of this type can and is usually stored for an indefinite amount of time by the possessor of this evidence. In the experience and training of the affiant it is known that in many instances these types of files have been found that were stored for years and transferred from and between storage medium and from computer to computer when a new computer was obtained or purchased by those who collect and trade in child pornography.
 - a. Kenneth Lanning, FBI (Retired) and a former member of the Behavioral Science Unit, FBI-Quantico has disclosed the following observation from his over 20 years of employment with the FBI.
 - b. Lanning is a widely recognized expert in the field of deviant sexual behavior and the sexual victimization of children. In his teachings and publications he states that law enforcement investigations have identified that most sexual offenders collect "theme" pornography and paraphernalia related to their sexual preferences. Some types of sex offenders do not merely view pornography, they collect and save the pornography that they view.
 - c. Collections can include: books, magazines, diaries, letters, photographs, articles, newspapers, slides, movies, albums, digital images, drawings, audio tapes, and the equipment utilized to

ATTACHMENT A
ITEMS TO BE SEIZED

The following materials which constitute evidence of the commission of a criminal offense; or contraband, the fruits of crime, or property designed or intended for use or which is or has been used as the means of committing a criminal offense, namely a violation of G.S. 14-190.17, and G.S. 14-190.17A

1. Computers and computer related storage media including but not limited to hard drives, thumbdrives, CD-R disks, floppy disks, flash media, memory sticks, iPods, PDAs (Personal Digital Assistant), and other magnetic and/or optical recording media.
2. Graphic files (including, but not limited to files bearing graphic interchange format extensions, .JPG, .GIF, .TIF, .AVI, and .MPG), and the data within the aforesaid objects relating to said materials, which may be, or are, used to visually depict child pornography or child erotica.
3. Computer programs capable of viewing graphic files.
4. Text files containing information pertaining to the interest in child pornography or sexual activity with children and/or pertaining to the sexual solicitation of a minor with the intent to commit an unlawful sex act; and the production, trafficking in, or possession of child pornography.
5. Correspondence, including, but not limited to, electronic mail, chat logs, and electronic messages, pertaining to the sexual solicitation of a minor with the intent to commit an unlawful sex act; and the trafficking in, production of, or possession of visual depictions of minors engaged in sexually explicit conduct, as defined in G.S. 14-190.17, 14-190.17A, and 14-202.3..
6. Correspondence including, but not limited to electronic mail, chat logs, electronic messages, soliciting minors to engage in sexually explicit conduct for the purposes of committing an unlawful sex act and/or producing child pornography.
7. Names and addresses of minors visually depicted while engaged in sexually explicit conduct.
8. Files depicting sexual conduct, whether between adults or between adults and minors.



N.C. Judicial Officer
June 23, 2009



Lt. Chris Hagwood, Affiant
June 23, 2009

STATE OF NORTH CAROLINA

WAKE County

In The General Court Of Justice
 District Superior Court Division

IN THE MATTER OF:

Name

1999 Toyota 4-Runner; VIN [REDACTED]

INVENTORY OF ITEMS SEIZED
PURSUANT TO SEARCH

G.S. 15A-223, 15A-254, -257

I, the undersigned officer, executed a search of:

Person, Premises Or Vehicle Searched

1999 Toyota 4-Runner; VIN [REDACTED]

Date Of Search

06-23-2009

This search was made pursuant to

1. a search warrant issued by: Magistrate B.J. Squires

2. consent to search given by: _____

3. other legal justification for the search: _____

The following items were seized:

- Canon Powershot A590IS 6620319642 Digital Camera
- 3 Compact Discs
- Dell PP31L Laptop Computer with power cord