

Other Documents

4:08-sm-00002-HFB United States of America v. 100 Circle Drive, Fouke, Arkansas

U. S. District Court

Western District of Arkansas

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Case Name: United States of America v. 100 Circle Drive, Fouke, Arkansas

Case Number: 4:08-sm-2

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Document Number: 1(No document attached)

Docket Text:

APPLICATION/AFFIDAVIT for Search Warrant. TEXT ONLY ENTRY - NO DOCUMENTS ATTACHED. (cap)

4:08-sm-2 Notice has been electronically mailed to:

Deborah Fennell Groom Debbie.Groom@usdoj.gov, carlene.j.thorman@usdoj.gov,
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UNITED STATES DISTRICT COURT
Western District of Arkansas

U.S. DISTRICT COURT
WESTERN DISTRICT ARKANSAS
FILED

SEP 20 2008

By **CHRIS R. JOHNSON, Clerk**

**APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT**

In the Matter of the Search of
(Name, address or brief description of person or property to be searched)

100 Circle Drive
Fouke, Arkansas

CASE NUMBER: **TX-08-SM-02**

I M. Randall Harris being duly sworn depose and say:

I am a(n) Special Agent of the Federal Bureau of Investigation and have reason to believe
Official Title

that on the person of or **X** on the property or premises known as *(name, description and or location)*

100 Circle Drive, Fouke, Arkansas (more fully described in Attachment A)

in the Western District of Arkansas, there is now concealed a certain person or property, namely *(describe the person or property to be seized)*

See Attachment B

which is *(state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)*

See attached affidavit - continued on the attached sheet and made a part hereof.

concerning a violation of Title 18 United States Code, Section(s) 2423(a), 2251 and 2252
The facts to support a finding of Probable Cause are as follows:

See attached affidavit - continued on the attached sheet and made a part hereof.

M. Randall Harris
Signature of Affiant

Sworn to before me, and subscribed in my presence

September 20, 2008 at Texarkana, Arkansas
Date/Time issued

Honorable Barry A. Bryant
U.S. Magistrate Judge
Name and Title of Judicial Officer

Barry A. Bryant
Signature of Judicial Officer

STATEMENT OF FACTS

I, M. Randall Harris, upon being duly sworn, depose and say the following is true according to my knowledge and belief:

INTRODUCTION

I am a Special Agent with the Federal Bureau of Investigation (FBI) and have held that position for approximately nineteen (19) years. My duties and responsibilities include the investigation of possible criminal violations regarding individuals who knowingly transport a minor in interstate commerce for the purpose of engaging in any sexual activity with a person under the age of 18 years for which any person can be charged with a criminal offense namely, Arkansas State Statute 5-14-127, Sexual Assault in the Fourth Degree, in violation of Title 18, United States Code (USC), Section 2423(a) (Transportation With Intent To Engage In Criminal Sexual Activity With A Minor), and federal violations regarding the production and possession of child pornography in violation of Title 18, USC Sections 2251 and 2252. I am currently involved in such an investigation involving BERNIE HOFFMAN, also known as (aka) TONY ALAMO, whose principle residence is 100 Circle Drive, Fouke, Arkansas, in the Western District of Arkansas. This affidavit is in support of a search warrant for that premises located at 100 Circle Drive, Fouke, Arkansas.

PROBABLE CAUSE

Based on my interview of a female juvenile victim who is presently 17 years of age, identified hereafter as JUVENILE #1, my interview of a second female juvenile victim who is presently 17 years of age, identified hereafter as JUVENILE #2, my interview of a third female juvenile victim who is presently 14 years of age, identified hereafter as JUVENILE #3, information provided to me by a confidential source (CS) who is in a position to provide reliable information as to activities occurring within ALAMO's residence, information provided to me by LARRY PATTERSON, and; my own personal observations and experience, I know the following:

1. JUVENILE #1 told me that when she was 8 years old, she was residing in ALAMO's residence in Fouke, Arkansas. JUVENILE #1 recalled that on a day in January, ALAMO called her into his bedroom at his residence in Fouke, Arkansas, and told her to lay on his bed and then ALAMO lay next to her. ALAMO began asking her various questions regarding whether she had a boyfriend or if she liked anyone. JUVENILE #1 stated that during this entire time ALAMO had placed his hands down the front of her pants and was "feeling around." JUVENILE #1 stated that for a period of time after that January, ALAMO would continue to call her into his bedroom and place his hands down her pants.

2. JUVENILE #1 told me that on May 17, 2000, when she was 9 years old, she and ALAMO exchanged wedding vows. Following the

exchange of vows, ALAMO began to fondle JUVENILE #1 over her clothes and then placed his hand down her pants and began to vaginally penetrate her with his fingers. ALAMO told her that he would not hurt her and that he was "trying to not make her a virgin any longer." JUVENILE #1 described the incident as painful. In the days and months following the exchange of vows, ALAMO would often call JUVENILE #1 into his bedroom at his residence in Fouke, Arkansas, where ALAMO would engage in what JUVENILE #1 described as foreplay. JUVENILE #1 stated that eventually, while she was still only 9 years old, ALAMO lay on top of her and placed his erect penis into her vagina. JUVENILE #1 stated that ALAMO ejaculated inside of her and subsequently told her to "clean herself up."

3. JUVENILE #1 stated that from the time she was 9 years old up until she was at least 12 years old, ALAMO took photographs of her in various stages of dress. She stated these photographs were taken by Alamo at his residence in Fouke. Some of the photos ALAMO took were close-ups of her genitalia with her legs spread. According to JUVENILE #1, the photos were taken with a Polaroid camera. JUVENILE #1 stated that ALAMO told her he took the pictures because he wanted to look at them "all the time." According to JUVENILE #1, ALAMO stored these pictures in a locked cabinet in his bedroom in the Fouke residence.

4. I am aware that the production and/or possession of any visual depiction of sexually explicit conduct of any person under

the age of 18 years old is a violation of Title 18, USC Sections 2251 and 2252. Sexually explicit conduct is defined in Title 18 USC 2256 and means actual or simulated (i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; (ii) bestiality; (iii) masturbation; (iv) sadistic or masochistic abuse; or (v) **lascivious exhibition of the genitals or pubic area of any person.**

5. LARRY PATTERSON of PATTERSON'S CAMERA SHOP told me that Polaroid brand cameras are manufactured in the State of Massachusetts and that the film for Polaroid cameras is manufactured outside the United States. Accordingly, any Polaroid camera utilized within the State of Arkansas has traveled in interstate commerce.

6. JUVENILE #1 told me that she also knew that ALAMO had taken similar pictures of other young girls who were also living in ALAMO's house in Fouke, Arkansas. JUVENILE #1 told me that one of those other girls had once found the key to ALAMO's locked cabinet and found pictures of the other girls. JUVENILE #1 herself also had found nude photographs of one of the other young girls who was living in ALAMO's house. JUVENILE #1 found these photographs under that young girl's bed.

7. JUVENILE #1 told me that ALAMO would watch adult pornographic movies on the television in his bedroom. JUVENILE #1 told me that ALAMO would have her watch the adult pornographic

movies with him and that he wanted her to watch the movies in order to show her how to perform oral sex.

8. JUVENILE #2 told me that when she was only 11 years old, she was living in ALAMO's house in Fouke, Arkansas. ALAMO made the decision that JUVENILE #2 was to become his wife. ALAMO had told JUVENILE #2 that she was to move into his house with all of her belongings. JUVENILE #2 was only 11 years old on March 27, 2003, when she was "married" to ALAMO.

9. JUVENILE #2 told me that the next day, March 28, 2003, was the first time ALAMO had sexual contact with her by penetrating her with his finger. JUVENILE #2 described this as the first time she was "raped" by ALAMO. JUVENILE #2 stated that this type of sexual contact continued for several months. JUVENILE #2 stated she was either almost 12 years old or had just turned 12 years old when ALAMO summoned her to his room and asked her if she wanted to have sex. JUVENILE #2 stated she shook her head to indicate to him that she did not. ALAMO made her have sex with him anyway. According to JUVENILE #2, ALAMO was forceful with her and demanded that she do it. JUVENILE #2 told me the sex she was referring to was sexual intercourse. JUVENILE #2 stated that ALAMO also had her perform oral sex on him.

10. JUVENILE #2 told me that ALAMO asked her if he could take pictures of her in the nude. JUVENILE #2 stated she knew that ALAMO had used a Polaroid camera to take pictures of some of the other girls. JUVENILE #2 stated she would not allow ALAMO to

take pictures of her, however, JUVENILE #2 also stated she knew ALAMO kept the nude pictures of the other girls in a locked cabinet in his room.

11. JUVENILE #2 told me that in about January or February 2006, when she was 14 years old, she was taken by ALAMO on a trip from Fouke, Arkansas to California. JUVENILE #2 traveled with ALAMO on his "bus." JUVENILE #2 stated that en route to California ALAMO had sex with her while on the bus. After arriving in California, ALAMO rented rooms at a motel located about an hour away from his "California compound." One night ALAMO called JUVENILE #2 into his room at the motel for "massage duty" and during that night, ALAMO had sex with her.

12. JUVENILE #2 told me that about a year prior to my interview of her which took place in May 2008, she was in California with her parents and ALAMO was also there. JUVENILE #2 would have been 15 years old when these events occurred in California. During that time, ALAMO had sex with her in a bungalow on ALAMO's California compound. JUVENILE #2 stated she was brought back from California to Arkansas with ALAMO on his bus. After returning to Arkansas, ALAMO had sex with her.

13. JUVENILE #3 told me that she was moved into ALAMO's house in Fouke, Arkansas prior to her 12th birthday. JUVENILE #3 stated that she had not yet turned 13 and believes that it was in about August 2007 when ALAMO had sexual contact with her at his residence in Fouke, Arkansas. JUVENILE #3 stated that she was

taking a shower in a bathroom adjacent to ALAMO's bathroom. At some point, JUVENILE #3 heard the bathroom door open and the bathroom light was turned off. Someone got into the shower with JUVENILE #3 and she realized that it was ALAMO. ALAMO placed his hand over her mouth and told JUVENILE #3, "It's me." JUVENILE #3 stated that ALAMO was naked and that she was scared and afraid to scream for fear of being beaten. ALAMO penetrated her vagina with his fingers and began rubbing her all over to include her breasts. ALAMO kept one hand over her mouth while rubbing her with his other hand. JUVENILE #3 stated that ALAMO tried to get her to place her hand on his penis. About that time, someone knocked on the bathroom door. ALAMO told JUVENILE #3, "Don't you dare tell anybody or I'll have someone take care of you." JUVENILE #3 thought she would be beaten if she told anyone and she did not tell anyone because she was scared and embarrassed. ALAMO later asked JUVENILE #3 if she had told anyone about what happened, and again threatened her if she did.

14. JUVENILE #3 told me that she knows JUVENILE #1 and that ALAMO had taken JUVENILE #1 as a wife when JUVENILE #1 was only 8 years old. JUVENILE #3 told me she knows JUVENILE #2 and stated that JUVENILE #2 was raped by ALAMO when JUVENILE #2 was a young girl.

15. JUVENILE #3 told me that she knows that ALAMO has taken pornographic pictures of some of the girls who live in his house. JUVENILE #3 told me she was once cleaning ALAMO's room when one

of the other girls found a box containing nude photographs of the other girls. JUVENILE #3 told me she knows that ALAMO has movie DVD's in his room. JUVENILE #3 is not certain whether any of these DVD's are pornographic, however, JUVENILE #3 knows that one of the other girls living in ALAMO's house was once caught watching a pornographic movie in ALAMO's room.

16. CS told me that ALAMO presently has approximately eight young females under the age of 18 living in his house. CS told me that she has seen ALAMO go into his bedroom with these young girls, sometimes taking more than one girl at a time. CS told me she has heard ALAMO tell the young girls that he has candy bars in his bedroom. CS also told me that ALAMO has a Barbie doll collection in his room.

17. CS told me that she knows JUVENILE #3 and that it was CS's belief that ALAMO was "messaging" with JUVENILE #3. CS believes that ALAMO is also "messaging" with three other young girls who are living in his house. CS states that some of these young girls are wearing rings. CS has overheard conversations among the females in ALAMO's house indicating that if a girl has a ring, she has lost her virginity to ALAMO.

18. CS stated there are at least nine computers in ALAMO's house and that ALAMO has access to the Internet.

19. Through my training, experience, and consultations with other law enforcement officers, I am aware that:

- a. Individuals involved in the sexual exploitation of

children through child pornography almost always keep copies of their sexually explicit material for long periods of time, especially when they are used in the seduction of children. Those materials are treated as prized possessions.

b. Individuals who are sexually attracted to children usually collect sexually explicit materials involving children, such as photographs, magazines, video tapes, books, slides, and computer images for their own sexual gratification. Because this material is illegal to openly purchase, the most common method of acquiring it is by trading with other people with similar interests. I also know that child pornography is not available in retail establishments and that people who wish to obtain child pornography often do so by ordering it from abroad or by discreet contact with other individuals who have it available.

c. Individuals involved in the collected and distribution of child pornography almost always maintain and possess their materials in a place considered secure due to its inherent illegality. Individuals who are procurers and distributors of child pornography or hard-core sexually explicit pornographic materials that are contrary to law, exhibit similar characteristics and will maintained their pictures, films, correspondence, and photographs in a secure place, most often, a residence, to avoid detection by law enforcement.

d. Individuals who engage in child pornography or hard-core sexually explicit pornography procurement or


distribution will most often collect, read, copy, or maintain numbers or lists of people who have similar interests. These contacts are maintained as a means of personal referral, exchange, and/or commercial profit.

e. Individual who produce, receive, transport, possess, distribute, and sell child pornography contrary to law, often keep records of their involvement in such activities. These records may include, but are not limited to, minor victims' and associates' names and addresses and are used to produce, create, transport, possess, distribute and sell child pornography.

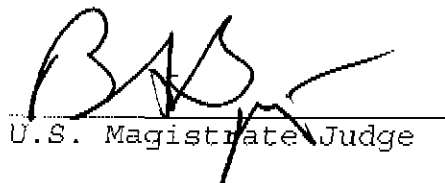
20. My observation of 100 Circle Drive, Fouke, Arkansas, disclosed that it is a residence located on the west side of U.S. Highway 71 and the north side of downtown Fouke, Arkansas. The residence faces Circle Drive, which travels west off U.S. Highway 71. The residence can further be described as brick veneer and white siding. The roof is of tan shingles. On the northwest corner of the residence is a second story. To the immediate south of the residence is a swimming pool. There is a concrete parking area and a carport on the east side of the residence.

SUMMARY

In summary, based on the above I have probable cause to believe that BERNIE HOFFMAN, aka TONY ALAMO, has been involved in the production and possession of child pornography in violation of Title 18, United States Code Section 2251 and Section 2252 and the transportation of a minor in interstate commerce for the purpose of engaging in any sexual activity with a person under the age of 18 years for which any person can be charged with a criminal offense, namely, Arkansas State Statute 5-14-127, sexual assault in the Fourth Degree, in violation of Title 18, United States Code Section 2423(a) and that evidence of these violations, as more fully described in Attachment B to this affidavit, exists and is concealed on the premises known as 100 Circle Drive, Fouke, Arkansas, which has been pictured and more fully described in Attachment A to this affidavit. It is therefore requested that a search warrant be issued for the premises known as 100 Circle Drive, Fouke, Arkansas, authorizing the search of the aforementioned premises for the items described in Attachment B.


M. Randall Harris
Special Agent, FBI

Sworn to and subscribed before me this 20th day of
September, 2008


U.S. Magistrate Judge

ATTACHMENT B

LIST OF ITEMS TO BE SEIZED

a. Any and all photographs, cameras, film, or other equipment which may be, or are used to visually depict child pornography, child erotica, information pertaining to the sexual interest in child pornography, sexual activity with children or the distribution, possession or receipt of child pornography, child erotica or information pertaining to an interest in child pornography or child erotica.

b. Any and all correspondence pertaining to the possession, receipt or distribution of visual depictions of minors engaged in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256.

c. Any and all correspondence or records pertaining to the travel in interstate commerce for the purpose of engaging in sexual activities with minors. The term minors as used in this list of items to be seized means persons under the age of 18 years.

d. Any and all books and magazines containing visual depictions of minors engaged in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256.

e. All originals and all copies and all negatives of visual depictions of minors engaged in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256.

f. Any and all motion picture films and video cassettes of visual depictions of minors engaged in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256.

g. Any and all envelopes, letters, and other correspondence offering to transmit through interstate commerce any visual depictions of minors engaged in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256.

h. Any and all envelopes, letters, and other correspondence identifying persons transmitting, through interstate commerce, any visual depiction or minors engaged in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256.

i. Any and all diaries, notebooks, notes and any other records reflecting personal contact and any other activities with minors visually depicted while engaged in sexually explicit conduct as defined in Title 18, United States Code, Section 2256.

j. Any and all materials and photographs depicting sexual conduct between adults and minors or minors and minors.

ATTACHMENT A

RESIDENCE TO BE SEARCHED

The principal residence of Tony Alamo is 100 Circle Drive, Fouke, Arkansas which is located on the west side of US Highway 71 and the north side of downtown Fouke, Arkansas. The residence faces Circle Drive which travels west off of US Highway 71. The residence is further described as brick veneer and white siding. The roof is of tan shingles. On the northwest corner of the residence is a second story. To the immediate south of the residence is a swimming pool. There is a concrete parking area and carport on the east side of the residence. See photograph below.

