

AUSA: Erin S. Shaw

Telephone: (313) 226-9182

AO 91 (Rev. 11/11) Criminal Complaint

Special Agent:  Raymond C. Nichols

Telephone: (313) 965-2323

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

21

United States of America

v.

MATTHEW MERCER-KINSER

Case: 2:19-mj-30574  
Assigned To : Unassigned  
Assign. Date : 11/1/2019  
Description: CMP USA v. SEALED MATTER (SO)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.


On or about the date(s) of October 10, 2019 in the county of Wayne in the Eastern District of Michigan, the defendant(s) violated:

*Code Section*  
18 U.S.C. § 2252A(a)(2) and (a)(5)(B)

*Offense Description*  
receipt, possession, and the accessing with intent to view of child pornography

This criminal complaint is based on these facts:  
See attached affidavit.

Continued on the attached sheet.



*Complainant's signature*

Raymond C. Nichols, Special Agent (FBI)

*Printed name and title*

Sworn to before me and signed in my presence.

Date: NOV 01 2019



*Judge's signature*

City and state: Detroit, MI

Hon. Elizabeth A. Stafford, U.S. Magistrate Judge

*Printed name and title*

**AFFIDAVIT**

I, Raymond C. Nichols, a Special Agent (SA) with the Federal Bureau of Investigation (FBI), Detroit Division, being duly sworn, depose and state as follows:

**INTRODUCTION**

1. I have been employed as a Special Agent of the FBI since February 2012, and am currently assigned to the FBI Detroit Division. While employed by the FBI, I have investigated federal criminal violations related to Internet fraud, computer intrusions, and the FBI's Innocent Images National Initiative, which investigates matters involving the online sexual exploitation of children. I have gained experience through training at the FBI Academy, post Academy training, and everyday work related to conducting these types of investigations.
2. As a federal agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.
3. This affidavit is made in support of an application for a criminal complaint and arrest warrant for MATTHEW MERCER-KINSER for violations of 18 U.S.C. § 2252A(a)(2) and (a)(5)(B), which prohibit the receipt, possession, and the accessing with intent to view of child pornography.

4. Because this criminal complaint is being submitted for the limited purpose of securing an arrest warrant I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe that Mercer-Kinser has violated 18 U.S.C. §§2252A(a)(2); (5)(B).

### **PROBABLE CAUSE**

#### **Prior Federal Case**

5. On June 16, 2009, Judge Robert H. Cleland sentenced Mercer-Kinser to serve 151 months in federal custody for transporting child pornography in the matter of *United States v. Matthew Mercer-Kinser*, 09-20001 in this district.
6. From June 2006 to May 2008, Mercer-Kinser was enlisted in the United States Army. In early 2008, he was stationed at Fort Benning, Georgia where he collected child pornography via the internet that he stored on his laptop and external hard drives. Mercer-Kinser's collection was prolific in terms of both volume and content, containing thousands of images of child pornography, including approximately 1,800 known images of at least 101 known victims. The images possessed by Mercer-Kinser depicted violent rape and sexual exploitation of babies and small children, including but not limited to the following: adult male penetrating infant female with his penis, adult male inserting penis into mouth of infant, infant female being penetrated with

pliers, and naked pre-pubescent girls bound and gagged with their genitals exposed.

7. When chatting online with an Australian undercover officer in the 2008 case, Mercer-Kinser bragged that he was molesting his 2 ½ year old son and was engaging in sexual relations with other family members, including a five or six year old niece. Mercer-Kinser has a son born in 2005, who would have been approximately 2 ½ years old at the time of the undercover conversation.
8. In 2008 during an interview with the FBI, Mercer-Kinser indicated that he went by the name “Drake” which was short for “Draconis.” Mercer-Kinser admitted to being sexually attracted to children, and intentionally searching out child pornography on the internet. Mercer-Kinser admitted to using specialized computer software, often referred to as Peer-to-Peer to search for and download child pornography. Mercer-Kinser further indicated that he was mainly interested in children between 0 and 14 years old. Additionally, Mercer-Kinser indicated he was “non-discriminating” meaning he was equally attracted to pornography depicting 3 year old children as he was to pornography containing 14 year old children. As discussed in more detail below, he made similar statements in an interview conducted by another federal inmate a few years later as part of a prisoner operated underground magazine.

9. Mercer-Kinser pled guilty. At the conclusion of that hearing, he asked to be detained. It was later discovered that a complaint had been filed with the Lapeer County Sheriff's Department alleging that Mercer-Kinser committed Criminal Sexual Conduct Third Degree on a minor relative. The victim alleged that when she and Mercer-Kinser were alone in his apartment that he provided her with alcohol and convinced her to perform oral sex on him as he watched pornography. The prosecutor in that case indicated that in the interests of justice the charges were dropped as Mercer-Kinser was facing a significant federal sentence.

#### **Conduct While in Federal Custody**

10. In April 2019, while Mercer-Kinser was still in federal custody, in a Federal Correctional Institution, an FBI confidential human source (CHS) provided information that Mercer-Kinser had mailed a letter to a female federal inmate serving time for child pornography related offenses. The return address on the letter was an address in Port Huron, Michigan. In the letter, Mercer-Kinser introduced himself as "Drake" and offered sympathy and friendship. Mercer-Kinser indicated that he was non-judgmental and open minded and was reaching out to what he hoped was a like-minded individual. Mercer-Kinser stated that he believed they had some common "experiences" and hoped they could form a friendship. The letter was signed "V Drake

PenDragon.”

11. Beginning in April 2019 and continuing into May 2019 the FBI began database checks in an effort to determine the purpose of the letter sent to the female inmate and its origins. The FBI learned that Mercer-Kinser’s wife, Nichole Mercer resided at the Port Huron, Michigan address on the return portion of the letter. After consulting other law enforcement agencies it was apparent that Mercer-Kinser was using his wife as an intermediary to facilitate the passage of messages to other federal inmates.

#### **Conduct While at Half-Way House**

12. Sometime in mid-2019, Mercer-Kinser was designated to a half-way house in Detroit to serve out the remainder of his federal prison sentence.
13. On October 2, 2019, the FBI received information of a derogatory nature from a relative of Mercer-Kinser. The relative claimed to have direct and indirect knowledge of previous sexual crimes committed by Mercer-Kinser, and what appeared to be “grooming” or attempted coercion and enticement of his own 10 year old daughter (MV1), and possibly the same activity with a 15 year old female child (MV2) well known to Mercer-Kinser and family. Further, the relative stated that Mercer-Kinser was living in a half-way house in Detroit, Michigan and was in direct, unsupervised contact with MV1 and MV2 through text messaging.

14. The relative provided the FBI with an 81-page document purported to be a transcript of an interview with “Vlad Draconis PenDragon” (Mercer-Kinser). The interview was conducted by Nathan Larson (another federal inmate) in late 2011 through early 2012 at Petersburg Federal Correctional Complex and was meant to be published as part of a prisoner operated underground magazine. During the interview, Mercer-Kinser expressed his opinions on child pornography and sex with children. The following are pertinent excerpts of the interview:

Larson	My sister’s boyfriend Mark is serving a three year prison term because, before their relationship began, he went down on a 13-year-old. ...would you reject mainstream society’s view of him as a sick, twisted pervert...
Mercer-Kinser	So long as the 13-year-old in question consented, what he did was not wrong.
Larson	What about the argument that a child’s body is not ready for sex – e.g., the female vagina has not grown to its adult size, and therefore could be hurt by sex.
Mercer-Kinser	...There’s other ways to cause and receive pleasure than any way which causes pain. Besides, that excuse only works up to a certain age, and even then without preparation.
Larson	I assume by “preparation” you refer to

	conditioning --
Mercer-Kinser	Physical conditioning
Larson	What do you think of the argument that children who have sex with adults will come to view themselves as only valued for sex?
Mercer-Kinser	I don't think that engaging in sex as a child is viewed by the child as a use or as something they're being used for. Children see sex as an enjoyable experience and it's not a matter of utility as much as it is fun.
Larson	If there were no laws against sex with children, and you were as wealthy as the King of Pop was in his heyday, would you create your own Neverland Ranch-style theme park and love pad...
Mercer-Kinser	...I would live as I already do, making friends and so much more.
Larson	Was there more you were going to say about what attracts you to incest?
Mercer-Kinser	There is something emotionally beautiful about watching a love as intense as one between people who have shared their entire lives explode from familial adoration to sexual.
Larson	What kind of incest was your favorite?
Mercer-Kinser	Father-daughter or mother-son or mother-daughter. Something about the relationship between the parties. Almost exploring an innate

	curiosity, taking love to its logical conclusion. And what love is stronger.
--	---

15. MV1 was on the relative's cellular phone plan. As such, the relative had been monitoring MV1's activity and observed concerning text messages between MV1 and Mercer-Kinser. The relative provided the FBI with hundreds of pages of text and multi-media messages exchanged between MV1 and Mercer-Kinser from approximately 7/22/2019 through 9/17/2019. The number used by Mercer-Kinser was 248-704-2082.
16. I have reviewed all the messages provided by the relative in their entirety and based on my training and experience in child exploitation investigations the messages appear to be an attempt to convince MV1 that sex with adults, and child pornography are not only acceptable, but normal. Throughout the messages it appears that Mercer-Kinser is grooming MV1 to be open to a sexual relationship with him once he is released from the halfway house.
17. At the start of the text messages, on 7/22/2019, Mercer-Kinser asks MV1 if she was upset with him about something he said earlier (unknown what). MV1 tells him that she is not upset. Mercer-Kinser indicated that whatever he was talking about made MV1's grandmother hate him, "all because of something that's not my fault. I didn't choose to be this way. Its' just the way I was made." Mercer-Kinser then proceeds to talk to MV1 about a friend

of hers who's dad is in prison. Mercer-Kinser instructs MV1 not to tell her friend why he was in jail, and then states, "That reminds me. The pictures with you and her wearing makeup: are you still gonna send them to me?" MV1 indicates that she will send the pictures and then sends approximately 5 pictures of herself and her friend wearing lipstick and makeup. Also, on 7/22/2019 Mercer-Kinser sends MV1 multiple images of animals, some not native to Michigan, indicating that his cellular telephone has an internet connection.

18. On 7/22/2019 Mercer-Kinser tells MV1, "You should send me a cute picture of you while I sleep, so I have a sweet surprised to wake up to: \*" MV1 then sends Mercer-Kinser a photograph of herself wearing a shirt and glasses. Mercer-Kinser responds, "You got such pretty eyes." The two then argue about who loves whom the most. MV1 refers to Mercer-Kinser as "Daddy Drake."
19. On 7/26/2019 Mercer-Kinser sends MV1 a sad emoji, and MV1 then asks him, "why the sad face." Mercer-Kinser responds, "Because Im tired of missing you" "I'd much rather be kissing you." The two then exchange kiss emojis and begin to argue about who loves whom most. Mercer-Kinser tells MV1 that she's his favorite girl in the whole world and that she has gorgeous eyes. Mercer-Kinser sends MV1 a photo of himself and her hugging in a

public place. MV1's shirt is slightly lifted to expose her side. Of the photo, Mercer-Kinser stated, "I feel like it was a missed opportunity though. Your side loop awfully ticklish right there."

20. On 7/27/2019 Mercer-Kinser and MV1 text about church and religion. The following are some of the pertinent parts of that conversation:

Mercer-Kinser	Do you believe that stuff?
MV1	Eh kinda
Mercer-Kinser	You believe some of it, but not all of it?
Mercer-Kinser	Do you believe there was a b guy named Jesus who walk around using magic powers to do miracles?
MV1	Not really
Mercer-Kinser	And do you believe there's an invisible man living in the sky, named god, who made everything and loves everyone?
MV1	Not really
Mercer-Kinser	I knew you were too smart to believe all that nonsense, Babygirl. So, if god's not real, then the book is just b bunch of stuff that people made up, like any other book, right?
MV1	Ya
Mercer-Kinser	Then the rules in the book are just those people's made up rules, and don't actually matter, right? I'm so glad you didn't fall for that stuff, My love. If the rules in that cool don't matter, how do you know what's right

	and what's wrong? How do you know what rules to follow?
MV1	Idk (I don't know)
Mercer-Kinser	Well, do you believe the rules that mom tells you are the right ones?
MV1	Eh
Mercer-Kinser	So if you don't think her rules are right, what about my rules?
MV1	There right
Mercer-Kinser	My rules say that, whatever you do, as long as it's not hurting anybody, it's ok. What do you think of that rule?
MV1	Good
Mercer-Kinser	So by my rules, you can do anything you want, as long as it's not hurting anybody. You think that's a good rule?
MV1	Yup
Mercer-Kinser	Anything?
MV1	Yup
Mercer-Kinser	Even what I went to prison for?
MV1	Yup
Mercer-Kinser	So you think what I did, what I was looking at, you think that's ok, now?
MV1	Yup

21. Mercer-Kinser and MV1 continue to exchange text messages about day to day

activities. During the exchanges, Mercer-Kinser shows an interest in one of MV1's close friends. Mercer-Kinser asks numerous times where the friend is, what they do together, and if the friend ever makes MV1 do "bad stuff." At one point during the text exchanges MV1 indicates she is with the friend and Mercer-Kinser sends a message which states, "Hi (FRIEND'S NAME)."

22. On August 5, 2019 Mercer-Kinser continues to talk to MV1 about his sexual interest in children and child pornography. Pertinent portions of those messages are below:

Mercer-Kinser	So, where were we when we talked last? Oh. Right. You were telling me that you don't think there's anything wrong with what I did. And I was asking if you really meant that and you said yes, because it isn't hurting anybody Do you remember?
MV1	Ya
Mercer-Kinser	And do you still feel that way? That there's nothing wrong with watching pictures and videos of kids doing sex stuff?
MV1	Ya
Mercer-Kinser	K cause I can speak more openly with you through text right now than I can talking, cause there's other people around
MV1	K
Mercer-Kinser	Well, you said that there's nothing wrong with looking at pictures and videos of kids doing sex stuff, right?

MV1	Oh ya
Mercer-Kinser	Well, what about the kids in the video? Are THEY doing anything wrong, by DOING the sex stuff? As long as they're not hurting eachother, I mean
MV1	Ya
Mercer-Kinser	So it's ok for kids to have sex as long as then all want to?
MV1	No
Mercer-Kinser	It's not ok, even if they're not hurting eachother?
MV1	Well if there not hurting anybody it's ok
Mercer-Kinser	So if everybody who's doing it is ok with it, then they're not hurting eachother, right? If nobody's being forced...? So it's ok as long as everyone is willing?
MV1	Ya
Mercer-Kinser	What about the adults in the pictures and videos? Were they doing anything wrong?
MV1	As long as no one s getting hurt
Mercer-Kinser	As long is they weren't HURTING the kids, of course
MV1	Ya
Mercer-Kinser	So it's ok for adults and kids to do sex stuff as long as nobody's getting hurt?
MV1	Ya
Mercer-Kinser	(smiley emoji) ok So your mom will be good soon, we should talk about something else Remember, our talks are super top secret for jus you and me, right?
MV1	Ya

Mercer-Kinser	So can you erase the conversation we were having so nobody can read it? Just to make sure? I'm glad you agree with me about the right and wrong, though (smiley emoji)
Mercer-Kinser	You're my sweetheart Right?
MV1	Yup
Mercer-Kinser	(smiley emoji) on your next birthday, I should out completely. Do I get dibs on you for that day?
MV1	(smiley emoji)
Mercer-Kinser	K. It's a date

23. On August 13, 2019 Mercer-Kinser exchanges messages with MV1 that indicate there were either telephone calls between the two, or other direct interaction outside of just text messages. Mercer-Kinser asks MV1 if she is happy about the "gymnastics thing." Mercer-Kinser tells MV1 that gymnastics is a reward for taking care of her other siblings and all the other ways "you're so helpful and responsible."
24. On August 17, 2019 Mercer-Kinser tells MV1 that he heard that she was "running around with my SECOND favorite girl in the universe." Mercer-Kinser refers to the other girl by name, which is withheld here (MV2). Mercer-Kinser indicates that MV2 had been one of his favorite people in the universe since she was 5 years old. Mercer-Kinser further indicated that he had previously spent a lot of time "over at her place," and babysat MV2 prior

to going to prison. Mercer-Kinser asked MV1 to send a message to MV2 letting her know that he said “hi.” Mercer-Kinser asks MV1 to give MV2 his phone number. MV1 then provides Mercer-Kinser with MV2’s phone number. Later in the conversation Mercer-Kinser indicates to MV1 that he did communicate in some manner with MV2 after receiving her number.

25. On August 20, 2019 Mercer-Kinser indicates that he really misses MV1, and talks to her about what he plans to do when he sees her:

Mercer-Kinser	I’ll probably pick you up and throw you over my shoulders and just wear you around like a scarf for a while so I can snuggle something you at my leisure
MV1	Yup
Mercer-Kinser	You won’t mind? Being worn and used as a snuggle toy? Or is that a problem for you?
MV1	Nope
Mercer-Kinser	(smiley emoji) you’ll be my snuggle toy?
MV1	Yup
Mercer-Kinser	Will you snuggle back?
MV1	Yup
Mercer-Kinser	I can wait. When I throw you up on my shoulders, should I have you long ways, so you’re on you’re side and both your legs are on one side and you arms are on the other? Or uprights, so you’re sitting on my shoulders, and I can just turn my head and kiss you knees? That’d be more like b piggy back ride than b scarf though

MV1	Ya
Mercer-Kinser	So which way do you think I should throw you up?
MV1	Idk (I don't know)
Mercer-Kinser	It'd be easier to have you v there longer if you're upright I think But you'd have to wear b skirt or the seams of your pants would start to rub my near raw lol
MV1	Ya
Mercer-Kinser	Good plan?
MV1	Ok
Mercer-Kinser	Ok. But don't forget you gotta wear a skirt the next time I see you
MV1	Yup

On that same day, Mercer-Kinser also asks MV1 about a leotard she has and what color it is. The next day, Mercer-Kinser asks MV1, "you're gonna make sure I get a picture of you in your leotard, right?" Throughout their conversations, Mercer-Kinser asks MV1 to send him photographs numerous times.

#### **Federal Search Warrant on Mercer-Kinser's Phone**

26. On October 10, 2019, a representative from the half-way house took possession of Mercer-Kinser's phone (248-704-2082) and provided it to the FBI. Later that day, Mercer-Kinser left the half-way house, ran down the embankment of I-94 and onto the freeway in an apparent suicide attempt. He was hit by a tractor-trailer and sustained non-life threatening injuries.

27. A federal search warrant for Mercer-Kinser's phone was obtained; the warrant was executed on October 11, 2019. The phone has internet access. Based on my training and experience, I know that child pornography collectors use the internet to obtain images of child pornography.
28. I have reviewed the contents of Mercer-Kinser's phone subsequent to the execution of the search warrant. Among other things, the phone included thousands of deleted items to include photographs, and "jailbait" internet bookmarks.
29. I observed approximately 163 images of what appeared to be children and young teenagers in various states of undress all of which appeared to be have been deleted from the phone. Many of the images possessed by Mercer-Kinser and reviewed by me depict the lascivious exhibition of the genitals of minor girls and in some cases those girls are performing oral sex on an erect penis. Based on my training and experience and the type and nature of these images, I believe that Mercer-Kinser downloaded these images using the internet. The following images, recovered from deleted space on Mercer-Kinser's phone, are significant:
  - a. Image1 – This image appears to depict a baby female. The photo is taken from an angle that appears to be below the baby's waist. The

baby appears to be wearing a pink dress, and no underwear. The image is focused on the bare vaginal area of the baby.

b. Image2 – This image appears to depict two young teenage female children, one Caucasian and one African-American. The image depicts the female’s faces with their tongues on an erect penis.

c. Image3 – This image appears to depict a young teenage female child. The child is depicted wearing glasses, her hand on an erect penis, the penis partially in her mouth.

30. I also observed deleted “jailbait” internet web forum bookmarks on Mercer-Kinser’s phone. Through my training and experience I have observed these forums to be geared toward the sharing of child pornography and discussion of underage children. Often these forums require users to register with a password in order to access the forum. I accessed the public pages of these forums using the links that were bookmarked on Mercer-Kinser’s phone. Two of those forums are described below (name of forums omitted to prevent public disclosure):

a. “jailbait” forum 1 – The forward public facing page for this website includes a “login” button, and a “register” button. Without logging in to the forum I was able to observe the following subforums:

- a.i. “[FORUM NAME] Discussion” which included the following description: “...Men acknowledge the truth that younger girls are more radiant, beautiful, lithe, and sexy than older femoids. For too long, we have been oppressed, but now we seek to take back the power (and the pussy).”
- a.ii. “...Gallery” which included the following description: “The [FORUM NAME] in pictures: see for yourself the irrefutable evidence of their desirability and therefore suitability to serve as mates for supreme gentlemen such as ourselves”
- b. “jailbait” forum 2 – the forum is captioned “Raping Girls is Fun”. The forward-facing page for this website includes a “members” button, “forum” button, and “rules” button. Without logging in to the forum I was able to observe the following subforums:
  - b.i. “[FORUM NAME] Discussion” which included the following description: “The reepill is the understanding that for civilization to survive, femoids need to be treated as subhuman objects whose purpose is to obey, and bear the children of, supreme gentlemen such as ourselves, devoting their whole existence to serving our pleasure in whatever ways we wish, for