

## AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

I, ~~Jason R. Richards~~, having been duly sworn, do depose and state as follows:

1) I am currently a Special Agent (SA) with the Federal Bureau of Investigation (FBI) and have been so employed since 2003. I am currently assigned to the West Palm Beach, Florida, Resident Agency of the FBI. I am charged with the duty of investigating violations of the laws of the United States to include matters involving the sexual exploitation of children. Information contained within this affidavit is the result of investigation by the FBI and other law enforcement agencies.

2) This affidavit is made in support of an application for a search warrant to obtain buccal (oral) swab samples from the person and body of Marion D. Yarbrough, who is more fully described in Attachment A to this Affidavit, sufficient to provide a quantity of deoxyribonucleic acid ("DNA") that could be submitted to a forensic laboratory for comparison with one or more samples of human body fluid and DNA evidence.

3) Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of the application for a search warrant, it does not set forth each and every fact known to me regarding this investigation.

### FACTS

4) On May 8, 2007, Julia Q. contacted the FBI and advised that her fifteen-year-old daughter, "A", had run away from home. "A" was last seen on April 24, 2007, at approximately 2:00 am, sleeping in the living room. When Julia Q. awoke that morning, "A" was gone, the door to the residence was open, and "A's" cellular telephone and keys were left behind in the residence. Julia Q. immediately reported the event to the Palm Beach County Sheriff's Office (PBSO).

5) When PBSO was unable to locate "A", Julia Q. began reviewing the contents of "A's" cellular telephone. Text messages on that phone showed that "A" had an "on-line" boyfriend. Julia Q. began contacting all of the people stored in "A's" cellular telephone and discovered that "A" was a member of an on-line community called "itsmy.com" using the screen name "Da1NOnlyBossLady." "Itsmy.com" is a website for cellular internet users only. The website allows users to share information, such as pictures and text messages, via cellular telephones. A cellular telephone number is required to become a member on this website.

6) Julia Q., with the assistance of others, accessed this website via her home computer. Julia Q. was able to determine "A's" passwords, and view "A's" inbox and outbox folders which contained the text messages "A" had sent and received. Julia Q. determined that the screen name of "A's" on-line boyfriend was "Blockburna1."

Julia Q. viewed "Blockburna1's" picture on "itsmy.com" from "A's" cellular telephone. Julia Q. observed that he was a black male who appeared to be in his late twenties or early thirties.

7) After reading most of the internet text messages, Julia Q. discovered that "A" had been communicating with "Blockburna1" since April 12, 2007. "Blockburna1" told "A" that he was twenty-one years' old and "A" told "Blockburna1" that she was fifteen years' old. Since the first day they chatted, "Blockburna1" told "A" that he loved her and asked "A" to visit him for a weekend or for however long she wanted. "Blockburna1" also asked "A" if she had ever had sex and told her that he would "take care of her" because she was a virgin. "Blockburna1" told "A" that he wanted to have a baby with her. "Blockburna1" finally convinced "A" to leave Florida and to travel to see him in Kentucky. "Blockburna1" arranged the purchase of a Greyhound bus ticket for "A" from West Palm Beach, Florida to Bowling Green, Kentucky. On April 23, 2007 at approximately 2:22 pm, "Blockburna1" provided "A" with a Greyhound bus reference number of 12062938 to use for the transportation. Prior to departing, "A" reminded "Blockburna1" that she was only fifteen years old, and asked if Greyhound would allow her to travel since she did not have any identification. "Blockburna1" told "A", "Yes, you don't need anything, I already checked."

8) In another text message, Julia Q. discovered two telephone numbers associated with "Blockburna1", 270-265-3925 and 502-662-1575. Julia Q. did a reverse telephone number check on the internet for both numbers and found the following information: for 270-265-3925, type-landline, [REDACTED] ton, Kentucky 42220; and for 502-662-1575, type-landline, [REDACTED] cky. Julia Q. printed out most of the text messages found in "A's" itsmy.com account and provided them to the FBI.

9) On May 8, 2007, FBI Agents went to 204 Elk Street, Elkton, Kentucky and interviewed Robert [REDACTED] locate [REDACTED] interviewing Agents that the last time he had seen Yarbrough and "A" was approximately May 1, 2007. They had visited the house for 4-5 days, however, they did not sleep there, and they had traveled to the Western Hills Motel, Bowling Green, Kentucky. FBI Agents attempted to locate Yarbrough and "A" at the motel but met with negative results.

10) On May 10, 2007, the FBI learned that Yarbrough had called his father's house from a cellular telephone, [REDACTED] to the teleph [REDACTED] Way, Apart [REDACTED]

11) The same day FBI Agents and local and State law enforcement officers responded to the address and made contact with Melinda Hardin. Hardin claimed that her sister had given "A" a ride the previous day, but she had no idea where "A" was on the date of the interview. As the interview took place, Hardin's sister and "A" came in the front door. When questioned about Yarbrough, they admitted he had been in the passenger side of the car they were just in, but he took off running after they stopped in the driveway.

12) Several Bowling Green Police Department (BYPD) units began searching the nearby area. One of the BYPD units spotted Yarbrough walking. Units surrounded the area and Yarbrough was taken into custody without incident.

13) At the Kentucky State Police (KSP) Post, "A" advised law enforcement that Yarbrough's uncle wired to her the Greyhound bus ticket that she had used to leave Florida. "A" stated that she had been with Yarbrough for approximately three weeks. "A" stated she resisted sex with Yarbrough initially and smacked him in the head at one point, but eventually she gave in. "A" stated that she had sex with Yarbrough twice a day, morning and evening, on all but a couple of the days she was with him. On every occasion they had sex, Yarbrough ejaculated inside "A", and he never used a condom. "A" had two pairs of sweat pants in her possession that she wore after having sex with Yarbrough. "A" stated that she had not washed the sweat pants. The two pairs of sweat pants, one green pair and one black pair, belonging to "A" were collected as evidence.

14) A sexual assault kit was performed on "A" during her examination at the Barren River Area Child Advocacy Center in Bowling Green, Kentucky.

15) On June 19, 2007, a federal grand jury sitting in West Palm Beach, Florida, returned an indictment charging Yarbrough with one count of enticement of a minor using a facility or means of interstate commerce, in violation of 18 U.S.C. § 2422(b); one count of transporting a minor in interstate commerce to engage in unlawful sexual activity, in violation of 18 U.S.C. § 2423(a); and one count of inducing a minor to travel in interstate commerce to engage in unlawful sexual activity, in violation of 18 U.S.C. § 2422(a), in Court File No. 07-80099-Cr-Marra/Hopkins. Yarbrough was transported from Kentucky to the Southern District of Florida and made his initial appearance and was arraigned on August 27, 2007. Yarbrough entered a plea of not guilty and is awaiting trial, which currently is set for February 4, 2008. I understand that the Assistant United States Attorney, [REDACTED], [REDACTED], Assistant Federal Public Defender Jonathan Pignoli, to determine whether Yarbrough would consent to providing a DNA sample or whether a search warrant would be necessary. AFPD Pignoli spoke with his client and asked the United States to proceed via a search warrant. I

understand that Yarbrough has made a motion for new counsel, but have no reason to believe that Yarbrough has changed his mind about requiring a warrant for the taking of his DNA sample.

16) On November 27, 2007, the KSP Western Laboratory Branch provided your Affiant with a forensic laboratory examination report regarding the biological examination of "A's" two pairs of sweat pants and the sexual assault kit. The examination located semen on "A's" green sweat pants and the vaginal swabs taken with the sexual assault kit.

17) Your Affiant knows from education and experience that a sample of a suspect's DNA would be of evidentiary value in that such a sample could be analyzed and compared to known DNA obtained from human body fluid evidence, such as semen, taken from a crime scene or from an evidentiary item. Such forensic DNA testing would make it possible to draw strong conclusions regarding whether the body fluid evidence found at the crime scene or found on the evidentiary item is likely to have originated, or not to have originated, from the suspect. Moreover, the results and conclusions drawn from the forensic DNA testing and comparison of hair, blood, saliva, or other body fluid samples of known and unknown origin have been deemed admissible in the courts of the United States.

#### CONCLUSION

18) Based on the foregoing, there is probable cause to believe that: (1) Marion D. Yarbrough committed the crimes charged in the indictment; (2) Yarbrough is the source of the human body fluid evidence found on clothing recovered from "A" and the sexual assault kit performed on "A;" and (3) buccal swab samples obtained from Yarbrough will contain evidence of the commission of the crimes charged in the indictment.

19) Accordingly, your Affiant requests the issuance of a warrant to seize and obtain buccal swab samples from Marion D. Yarbrough. The samples will be taken using generally accepted forensic evidence collection techniques.

FURTHER AFFIANT SAYETH NAUGHT

\_\_\_\_\_  
Jason B. Richards, Special Agent  
[REDACTED]

Subscribed and sworn to before me  
this \_\_\_\_\_ day of November, 2007.

\_\_\_\_\_  
Ann E. Vitunac  
United States Magistrate Judge