

The Honorable Robert J. Bryan

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff,
v.
DAVID TIPPENS,
Defendant.

NO. CR16-5110 RJB
**DECLARATION OF FBI SPECIAL
AGENT DANIEL ALFIN**

UNITED STATES OF AMERICA,
Plaintiff,
v.
GERALD LESAN,
Defendant.

NO. CR15-387 RJB
**DECLARATION OF FBI SPECIAL AGENT
DANIEL ALFIN**

UNITED STATES OF AMERICA,
Plaintiff,
v.
BRUCE LORENTE,
Defendant.

NO. CR15-274 RJB
**DECLARATION OF FBI SPECIAL AGENT
DANIEL ALFIN**

1 I, Daniel Alfin, declare as follows:

2 1. I am a Special Agent of the Federal Bureau of Investigation. I am currently
3 assigned to FBI Headquarters, Criminal Investigative Division, Violent Crimes Against
4 Children Section, Major Case Coordination Unit. My duties involve the investigation of
5 individuals using various types of technology to produce, distribute, and trade child
6 pornography.

7 2. I have been involved in the FBI investigation of the Playpen website since
8 it came online in approximately August 2014. Playpen was a website that existed on an
9 anonymous network and was dedicated to the advertisement and distribution of child
10 pornography. My duties have involved the review of Playpen on multiple occasions,
11 engagement in undercover activities on Playpen, and the coordination of investigative
12 activity with regard to identified members of Playpen such as the defendants.

13 3. I have read the supplemental declaration of Assistant Federal Public
14 Defender Colin Fieman ("Fieman Dec."), submitted under penalty of perjury and filed
15 August 23, 2016. Mr. Fieman's declaration contains a number of inaccurate statements,
16 as referenced below.

17 4. Attached to Mr. Fieman's declaration are copies of "Playpen message
18 threads showing communications that were posted by an FBI agent and Playpen users
19 between February 21, 2015, and March 4, 2015." Fieman Dec. at 2, ¶ 2. Mr. Fieman
20 then states: "as revealed in these messages and recently confirmed by the Government
21 during a discovery conference, FBI Special Agent Daniel Alfin helped administer the site
22 and made substantial technical improvements to it. These improvements allowed users to
23 post and download child pornography with greater reliability and speed than had been
24 possible before the FBI assumed control of the site." *Id.* at 2, ¶ 3. Mr. Fieman also
25 states: "[d]uring a recent discovery conference with Asst. Federal Public Defender Peter
26 Adolf, District of North Carolina, Agent Alfin confirmed that he had made technical
27 improvements to the Playpen site and that the FBI had posted the administrator
28 announcements quoted above, under the user name "Playpen 1." *Id.* at 4, ¶ 11.

1 5. These statements are incorrect. First, neither I nor any other FBI agent
2 made technical improvements to the Playpen website while it was under government
3 control. Nor have I ever claimed to have done so, in a discovery conference or
4 elsewhere. Second, no such discovery conference with Mr. Adolf took place.¹ I have
5 never stated to Mr. Adolf that I or any other FBI agent made any technical improvements
6 to the Playpen website. Third, there was no such user name as “Playpen 1” on the
7 Playpen website.

8 6. Mr. Fieman references a posting made by an undercover FBI Agent while
9 the Playpen website was under government control, which describes the return of the
10 Playpen file hosting feature. Fieman Dec. at 2, ¶ 5. The Playpen file hosting feature was
11 a part of the Playpen website that existed prior to the government seizure of the website.
12 FBI Agents did not create, add, or enhance this feature of the website. The feature was
13 briefly down at or about the time the FBI seized the site. It was returned to its prior,
14 operational state after the FBI seizure of the site.

15 7. Mr. Fieman also references a posting by an undercover FBI Agent stating
16 that the Playpen “Producer’s Pen” would be returning in the near future. Fieman Dec. at
17 2, ¶ 5. The “Producer’s Pen” was a section of the Playpen website that encouraged
18 members to produce and share new child pornography. The “Producer’s Pen” was closed
19 immediately after the FBI seized control of Playpen. Postings made by the undercover
20 FBI Agent indicating that the section would eventually return were intended to keep users
21 from discovering the law enforcement takeover. At no point in time was the “Producer’s
22 Pen” brought back online.

23 8. While Playpen operated at a government facility, FBI Agents monitored all
24 site postings, chat messages, and private messages continuously to comply with Title III
25

26 ¹ I did participate in a discovery conference with Mr. Adolf in September 2015. The purpose of the conference was
27 to discuss and provide discovery related to the investigation of the creator of the Playpen website, Steven Chase,
28 whom Mr. Adolf represents. Also present during this meeting were two federal prosecutors. No discussion
regarding the alleged improvements to the Playpen website took place. This was the only discovery conference in
which I met with Mr. Adolf. There was no recent discovery conference as alleged by Mr. Fieman.

1 monitoring requirements and to assess and mitigate risk of imminent harm to children, to
2 include monitoring of the entire website to ensure that any suspected images or videos of
3 new child abuse were removed from the site. As of July 2016, at least thirty-eight
4 children have been identified or rescued from abuse as a result of this investigation.

5 9. Mr. Fieman references a posting dated February 23, 2015, in which an
6 undercover FBI agent posted a message stating that the administrator had “upgraded the
7 token ring to Ethernet.” Fieman Dec. at 3, ¶ 7. This posting did not actually involve any
8 upgrade to the website. “Token ring” is a networking technology that was developed in
9 the 1980’s and is generally no longer used in modern technology. Clearly, no part of the
10 Playpen website ever relied on “token ring” technology. Mr. Fieman’s declaration does
11 not reference the fact that several users responded to that posting indicating that they
12 clearly understood the post to be an ironic reference. This sort of reference was
13 consistent with other postings by the Playpen administrator and was intended to
14 demonstrate continuity in the language of his postings.

15 10. I have also reviewed a copy of the Playpen website that existed prior to the
16 FBI takeover of Playpen. This was a backup copy that was created by the primary
17 administrator and creator of the Playpen website and was subsequently seized during the
18 February 2015 search of his Naples, FL, residence. Analysis of that copy showed that in
19 the approximately two week period leading up to and including February 13, 2015,
20 approximately one week before the FBI takeover, Playpen received approximately 99,000
21 unique user logins, nearly identical to the number of unique user logins that Playpen
22 received while it was under government control. There was in fact no significant
23 increase in traffic to the Playpen website while it was under government control. Any
24 alleged increases in user traffic stem from calculating average user activity from the time
25 Playpen was created. User activity on Playpen was lower during its initial weeks and
26 months as it had not yet gained popularity. As such, calculations regarding user activity
27 that includes this period of lower activity do not accurately represent activity on Playpen
28 immediately preceding the government takeover of Playpen.

1 11. Mr. Fieman references several postings by Playpen users suggesting that
2 the site was running properly. Fieman Dec. at 3, ¶¶ 9-10. The FBI was not responsible
3 for those postings, and one can only speculate as to why any particular user posted such
4 an opinion. How “fast” a Tor hidden service operates for an individual user is dependent
5 on myriad factors outside the control of any website administrator, to include the user’s
6 Internet connection, computer specifications, and other network-based factors. During
7 the initial days of the government’s operation of the Playpen website, users experienced
8 connectivity issues to the website that were attributed to latency or congestion issues
9 within the Tor network itself. Such issues are common on heavily trafficked Tor hidden
10 services and not even the developers of the Tor software can explain why Tor hidden
11 services sometimes experience such problems.² Eventually the connectivity issues were
12 resolved; not due to any specific action taken on the part of the FBI. Moreover, a number
13 of Playpen users commented that they were still having connectivity issues with the site
14 at and after the point of the selective group of messages referenced in the Fieman
15 declaration.

16 12. With respect to the scope of the problem of child pornography on the Tor
17 network, I would note that there are currently other child pornography bulletin boards
18 operating on the Tor network that are similar in structure and function to Playpen and
19 contain hundreds of thousands of user accounts, tens of thousands of postings, and which
20 facilitate access to thousands of images and videos of child pornography. Law
21 enforcement agents can view and document those websites, their contents, and the child
22 pornography images and videos trafficked through them. But because they operate as
23 Tor hidden services, the location of the computer servers hosting the websites, the
24

25 _____
26 ² In fact, there is a posting located on the official Tor project website which states, “[h]idden services are
27 sloooooowwww and we don't even understand why. They might be slow because of the expensive setup process of
28 *Hidden Services Need Some Love*, posted April 22, 2013, available at [https://blog.torproject.org/blog/hidden-
services-need-some-love](https://blog.torproject.org/blog/hidden-services-need-some-love) (last visited September 19, 2016).

1 | locations and identities of their users who are perpetrating crimes against children, and
2 | their child victims, are currently unknown.

3 | EXECUTED: September 22, 2016.

4 |
5 | 
6 | DANIEL ALFIN
7 | Special Agent, FBI
8 |
9 |
10 |
11 |
12 |
13 |
14 |
15 |
16 |
17 |
18 |
19 |
20 |
21 |
22 |
23 |
24 |
25 |
26 |
27 |
28 |