

AO 91 (Rev. 11/11) Criminal Complaint

**FILED**

FEB - 4 2019

**UNITED STATES DISTRICT COURT**

for the  
WESTERN District of TEXAS

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]  
DEPUTY CLERK

United States of America  
v.

Benjamin Bogard

Case No. 5:19-MJ-131

Defendant(s)

**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 January 29, 2019 in the county of COMAL in the  
WESTERN District of TEXAS, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18/2252A(a)(5)(B)	Receipt of Child Pornography.  Maximum 5-20 years imprisonment; Lifetime of supervised release; \$250,000 fine; \$100 special assessment; \$5,000 assessment pursuant to JVTA; Restitution, and Forfeiture

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.

[Signature]

Complainant's signature

REX MILLER, SA, FBI

Printed name and title

- Sworn to before me and signed in my presence.
- Sworn to telephonically and signed electronically.

Date: 2/2/2019

[Signature]

Judge's signature

City and state: SAN ANTONIO, TEXAS

HENRY J. BEMPORAD, US MAGISTRATE JUDGE

Printed name and title

**COMPLAINT AFFIDAVIT**

I, Rex Miller, being duly sworn, depose and state that:

1. I am a Special Agent ("SA") of the Federal Bureau of Investigation ("FBI") and have been so employed since January 2004. I am currently assigned to the San Antonio Division of the FBI. I am assigned to the Violent Crimes against Children Section and as such, I investigate crimes against children, including the trafficking and possession of child pornography. I am a former headquarter supervisor in the Research and Development Unit within the Innocent Images Program, the program that investigates these violations. I have received particularized training in the investigation of computerrelated crimes, Usenet, peer-to-peer computer networking, and online (i.e. Internet based) crimes against children. I have conducted and been involved in numerous investigations of individuals suspected of producing, distributing and receiving child pornography and have participated in the execution of numerous search warrants which have resulted in the seizure of multiple items of child pornography. I have had the occasion to become directly involved in investigations relating to the sexual exploitation of children, to observe and review extensive examples of child pornography in various media formats, including computer-based formats. I have also received training in the investigation and detection of cases involving the sexual exploitation of children and child pornography.
2. This affidavit is being submitted in support of an Application for a Criminal Complaint for **BENJAMIN BOGARD (Bogard)**, address: XXXX Geneseo Oaks, New Braunfels, Texas.
3. On 01/25/2019, SA Kristian Spindel and Task Force Officer Randy Reyes interviewed Bogard at his residence, 2395 Geneseo Oaks, New Braunfels, Texas. Bogard was interviewed regarding Internet related posts involving domestic terroristic threats that included threats of mass violence. During the interview, Bogard allowed Special Agents of the Federal Bureau of

Investigation to permit a complete search of his Huawei P20 Lite ANE-LX3 cellular phone bearing serial number KPSDU18425000143 and Bogard signed an FD-26, Department of Justice, Federal Bureau of Investigation, Consent to Search Form.

4. On 01/29/2019, a review of stored videos saved in the downloads folder on the phone revealed a video titled, “.com.google.Chrome.adG133.” SA Rex Miller reviewed this video. This video is an 18 second video that depicts a minor female child lying on a bed on her side. The minor child appears to be asleep. An adult male pulls the minor child’s panties to the side and then down and anally penetrates the minor child with his erect penis. The adult male stops when the minor child begins to move. At the bottom of the video is displayed the following web address: [www.clubvipclip.com](http://www.clubvipclip.com). The modified date of the video is 11/24/2018.

5. A Federal search warrant for the phone was obtained on 01/30/2019. A further analysis of the phone yielded an additional image depicting child pornography dated 10/14/2017. The image is a series of four separate images. The upper right image depicts a prepubescent female wearing only a tank top. The minor female child is performing oral copulation on an adult male.

6. Based on the aforementioned facts, your Affiant respectfully submits that there is probable cause to believe that **Benjamin Bogard** knowingly received any child pornography using any means and facility of interstate or foreign commerce, and knowingly possessed any material that contains an image of child pornography, that has been shipped and transported using any means and facility of interstate and foreign commerce or was produced using materials

that were shipped and transported in and affecting interstate and foreign commerce, in in violation of 18 U.S.C. §§ 2252A(a)(2) and 2252A(a)(5)(B), respectively.

FURTHER AFFIANT SAYETH NOT,

Sworn to before me this day of February <sup>2</sup> 1, 2019.



Special Agent Rex Miller, FBI  
San Antonio, Texas



HENRY J. BEMPORAD  
UNITED STATES MAGISTRATE JUDGE