

UNITED STATES DISTRICT COURT

for the

Central District of Illinois

United States of America

v.

Case No. 20-MJ- 6477

Austin M. McLain

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 on or about 11/10/20-11/14/20 in the county of Rock Island in the
Central District of Illinois, the defendant(s) violated:

Code Section

18 U.S.C. 2422(b)

Offense Description

using facilities of interstate commerce, that is a mobile phone, connected to the Internet, did knowingly attempt to persuade, induce, entice, and coerce an individual who had not attained the age of 18 years, to engage in sexual activity under such circumstances as would constitute a criminal act in violation of 18 United States Code, Section 2422(b)

This criminal complaint is based on these facts:

See attached Affidavit

☒ Continued on the attached sheet.

s/Kurt Bendoraitis

Complainant's signature

SA Kurt Bendoraitis

Printed name and title

Sworn to me over the telephone and signed by me pursuant to Fed.R.Crim.P. 4.1

Date: 11/16/2020

s/Jonathan E Hawley

Judge's signature

City and state: Peoria, Illinois

Jonathan E. Hawley, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

CASE NUMBER 20-MJ-6477

AUSTON M. MCLAIN,)

Defendant.)

FILED UNDER SEAL

CRIMINAL COMPLAINT

I, Kurt Bendoraitis, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

Count 1

(Attempted Enticement of a Minor)

From on or about November 10, 2020 through November 14, 2020, the defendant,

AUSTON M. MCLAIN,

in Rock Island County, Illinois, within the Central District of Illinois, and elsewhere, using facilities of interstate commerce, that is a mobile phone, connected to the Internet, did knowingly attempt to persuade, induce, entice, and coerce an individual who had not attained the age of 18 years, to engage in sexual activity under such circumstances as would constitute a criminal act in violation of 18 United States Code, Section 2422(b).

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation and have been since May 14, 2017. As part of my duties, I investigate violations of federal law, including the online exploitation of children, particularly in relation of violations of Title 18, United States Code, Sections 1591, 2251, 2252A, and 2422 which criminalize, among other things, the production, advertisement, possession, receipt, transportation of child pornography, individuals attempting to persuade, induce, and entice minors to engage in sexual activity, and underage prostitution. I have gained experience in the conduct of such investigations through training in classes and work related to conducting these types of investigations. Specifically, I have received training in the Online Sexual Exploitation of Children. I have been involved in multiple search warrants, arrests, and have conducted online chatting investigations in an undercover capacity. As a federal agent, I am authorized to investigate and assist in the prosecution of violations of laws of the United States, and to execute search warrants and arrest warrants issued by federal courts.

2. The statements contained in this affidavit are based on my personal knowledge as well as on information provided to me by other law enforcement officers. This affidavit is being submitted for the limited purpose of securing an arrest warrant, and I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that Auston M. McLain committed violations of Title 18, United States Code, Sections 2422(b).

STATUTORY AND LEGAL AUTHORITY

3. This investigation concerns violations of Title 18, United States Code, Section 2422(b), relating to the enticement or the attempted enticement of minors to engage in prostitution or any sexual activity for which any person can be charged. Based upon my training and experience, as well as conversations with other experienced law enforcement officers and experienced federal prosecutors, I know the following:

- a. 18 U.S.C. 2422(b) prohibits using any facility or means of interstate commerce to knowingly persuade, induce, entice or coerce any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged, or attempt to do so.
- b. The internet is a facility of interstate commerce.

Definition of Terms

4. The following terms used in this affidavit have the indicated meaning in this affidavit:

- a. The term “minor” is defined at 18 U.S.C § 2256(1) as any person under the age of eighteen years.
- b. The term “sexually explicit conduct” is defined at 18 U.S.C. § 2256(2)(A) as actual or simulated – (i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or anal-oral, whether between person 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.

- c. The term “computer” is defined as set forth in 18 U.S.C. § 1030(e)(1).

Investigation

5. On approximately November 10, 2020, an FBI Online Covert Employee (OCE) was conducting an undercover investigation on a mobile dating application to identify people attempting to sexually exploit minors. The mobile dating application allows users to see other users in a geographic location near them and to directly message another user. The mobile dating application also allows users to have a profile which can include age, likes, dislikes, interests, and other categories. All users must state their age as at least 18 years old. A user, later identified Auston M. McLain (SUBJECT), directly messaged OCE’s account, which purported to be a young male, and the following are excerpts of the conversation:

November 10th

SUBJECT: What’s up?

OCE: Bored. You

SUBJECT: About to head to the gym and stop by my new place. I’m moving this week downtown Davenport.

SUBJECT: You look really cute I might add. Just sayin

SUBJECT: [smiley face emoji]

OCE: Your cute yourself

SUBJECT: What are you looking for or into?

OCE: Discreet fun. I'm new to this but want to try

SUBJECT: I'm game for that

SUBJECT: Top, bottom?

OCE: I'd like to try both. What do u prefer

SUBJECT: Bottom but I'm open minded. I'll do both with you

SUBJECT: How many guys have you been with?

SUBJECT: Not many I assume?

OCE: None lol

SUBJECT: Haha

SUBJECT: That's hot actually

OCE: Haha. It's not easy finding guys my age lol

SUBJECT: Well we can do it all man

SUBJECT: You're 18? Or?

OCE: I'm almost 16. I'd like to try for sure.

SUBJECT: Nice haha

SUBJECT: Should we take this convo elsewhere?

OCE: Text?

SUBJECT: Sure

SUBJECT: Do you drive then?

SUBJECT: What's your number?

OCE: 6186942724

SUBJECT: Texted you

SUBJECT: Do you have a nice cock?

SUBJECT: [smiley face emoji]

OCE: Not really. It's small lol. Is that a problem

SUBJECT: No. You look good man

SUBJECT: Do you have a pic of it?

OCE: Thank. You to

OCE: I don't sorry

SUBJECT: [A picture of an erect penis and also a picture of what appears to be a buttocks.]

SUBJECT: Mmm

OCE: I'd like to work on that lol

SUBJECT: Got any of your body?

SUBJECT: I'll bet your body is sexy man

OCE: [picture of male with shirt pulled up showing abdominal area]

SUBJECT: Fuck

SUBJECT: I'll definitely do it man

SUBJECT: If you can't find anyone [smiley face emoji]

OCE: You just have to keep it to yourself.....if you know what I mean

SUBJECT: Will you keep it to yourself?

OCE: Yep. That's a must

SUBJECT: Can you come over sometime?

OCE: I'll be home by myself this week

OCE: Does that work?

SUBJECT: I'd rather you come to my place haha

OCE: You'd have to pick me up

SUBJECT: Where are you at?

OCE: Rock Island

SUBJECT: Where in RI?

SUBJECT: I'm down

OCE: By the saukie golf course

SUBJECT: Awesome

OCE: Cool. You'll definitely have to teach me tho

SUBJECT: I'm cool with that man

OCE: Nice. Can't wait

SUBJECT: Do you wanna kiss?

OCE: Not sure. If I'm horny enough I'm sure I will

SUBJECT? I want to

SUBJECT: So

SUBJECT: Yup to you man

SUBJECT: Up to you*

OCE: Cool. You think I'll be horny enough lol

SUBJECT: Haha I hope so

OCE: Think you can get me there?

SUBJECT: I think I can

OCE: How will you

OCE: Just want to know what to expect

SUBJECT? I wanna kiss your body

SUBJECT: And give you head

SUBJECT: And if you want you can give me head

OCE: I do want to.....bad

SUBJECT: And if you want you can fuck me, I'll fuck you back

OCE: You'd have to be gentle and wear a condom

SUBJECT: Ok

SUBJECT: When you're out and all you should go in prep

SUBJECT: Do you know what that is?

OCE: No and I don't drive..... remember I'm 15. Please explain

SUBJECT: It's a pill you take every day and you don't get hiv

OCE: Oh. R u positive

SUBJECT: No

OCE: I don't know how to get that pill

SUBJECT: Because if that

SUBJECT: Prep

OCE: Do I need it

SUBJECT: Everyone takes it

SUBJECT: And then they fuck without care lol

SUBJECT: Not with me

SUBJECT: And not if you use condoms

OCE: Gotcha. Can we use condoms

SUBJECT: But you'll learn that it's more fun without them

SUBJECT: Ya I don't care

SUBJECT: Would be better without them but ok [smiley face emoji with a wink]

SUBJECT: Haha

OCE: Maybe if you use one but I don't lol

SUBJECT: Ya it's cool man

SUBJECT: Do you want me to rim you?

SUBJECT: And will you still kiss after that?

OCE: Not after that lol

SUBJECT: Hahaha ok

SUBJECT: Then nevermind that haha

OCE: Lol

SUBJECT: [Image of erect penis with what appears to be semen on it].

OCE: Now I'm m hard lol. Did u just take that

SUBJECT; No haha

OCE: Haha. I thought you were stroking while talking to me

SUBJECT: Haha I'm at the gym hahaha

OCE: oh lol

SUBJECT: [smiley emoji with devil like horns]

SUBJECT; I'd love to see your cock

OCE: You'll definitely get to see it

November 11, 2020:

OCE: Hi

SUBJECT: Hey hey

SUBJECT: What's up man

OCE: Not much. Hru

SUBJECT: Great, just getting moved into the new place

SUBJECT: How are you man

OCE: Cool. I'm good. No complaint s

SUBJECT: Are you talking to many guys?

OCE: Not really. U

SUBJECT: Eh I talk ya

SUBJECT: Guys probably love your look man

SUBJECT: I know I'm drooling

OCE: Haha. Most just want pics

SUBJECT: Haha

SUBJECT: [smiley face emoji] I just wanna see how sexy you are [smiley face emoji with wink]

SUBJECT: Are we hanging out on Saturday?

SUBJECT: Or Sunday

OCE: Friday night or Saturday. I'll be here for both. Your choice.

SUBJECT: I think Friday night is good

OCE: Awesome!!!!

SUBJECT: [smiley face emoji]

SUBJECT: Can I call you an Uber to come to my place

OCE: Never thought of that last lol. Or just pick me up?

SUBJECT: Ya but I don't mind paying for an Uber

OCE: I've never taken one

SUBJECT: They're nice haha

SUBJECT: They're really good to use

SUBJECT: Just get in and your there

OCE: How will I get home

SUBJECT: I'll call you an Uber lol

November 13, 2020:

SUBJECT: I can stop thinking about you

SUBJECT: Are you excited for later today?

SUBJECT: What time are you free?

OCE: I am. Should be free about 5

OCE: And your sweet

OCE: You want to come here?

SUBJECT: I'd rather have you at my place if that's ok

OCE: Just nervous about getting there

SUBJECT: I'm nervous about going there haha

OCE: Lol. Nobody's here

SUBJECT: Nobody is at my place lol

OCE: Or maybe we can meet in your car. And then go to ur house after we do some things.... [smiley face emoji with tongue sticking out]

OCE: Mom's gone by the way. I'm free. Just let me know.

SUBJECT: I have to go home first. I'm in IA City. I'm coming home now.

SUBJECT: But can you please come over?

OCE: K. Can u pick me up at least.

SUBJECT: I thought we had all this works out and now you're changing it on me man

SUBJECT: [crying emoji with tear drop]

SUBJECT: I really wanted to fuck you...

OCE: I want you to to. Can just pick me up. I'm uncomfortable with the Uber thing.

SUBJECT: [emoji with squinting eyes]

SUBJECT: I'm driving I'll hit you up soon

OCE: Ok

SUBJECT: Ok so

SUBJECT: I guess it's not gunna happen cuz I'm nervous too

SUBJECT: And I'd rather not meet you in the car

SUBJECT: I can say that if you decide anything, to go home, if you get to my place and chance your mind, etc

SUBJECT: I can call you an Uber to take you home

SUBJECT: You can just text me

SUBJECT: IF you're Ubering and deciding against it just tell him to return around and he will.

OCE: Id just prefer to just go with you. The Uber makes me uncomfortable

SUBJECT: Ok...

SUBJECT: I'm so horny

November 14, 2020

OCE: You still coming

SUBJECT: Ya I'll get ready now. The mover was supposed to help me hours ago.

Fucker.

OCE: K

OCE: You there

SUBJECT: Yes getting out of here soon

OCE: Can I ask you a question

SUBJECT: Sure what's up

OCE: Why does your scruff say ur only 4 miles away from me

SUBJECT: I'm downtown Davenport?

OCE: Oh lol. I thought you said u we're like an hour away

SUBJECT: Oh. No way

OCE: Just want to make sure ur not fucking with me

SUBJECT: Omg no

OCE: Thnx

SUBJECT: I wouldn't offer an Uber if it was an hour away lol. It's like 5 bucks.

OCE: Good point. Then it's no big deal for you to pick me up lol

SUBJECT: Lol

OCE: I'm ready now btw

SUBJECT: Brushing my teeth then I'm out of here

SUBJECT: [sends photo of himself in front of mirror with black shirt on]

OCE: Damn cute

SUBJECT: Thanks stud haha. Where do I go?

OCE: [OCE's address in Rock Island, IL]

SUBJECT: On my way

SUBJECT: Can we kiss when you get in the car?

OCE: Awesome!!!!!!!!!!

OCE: You close

SUBJECT: Pulling up now. I'm in a red SUV.

SUBJECT? You there?

6. FBI Special Agents and Task Force Officers observed a red sport utility vehicle park in front of target residence. Special Agents and Task Force Officers then approached the vehicle, identified themselves, and arrested Subject. Subject was then identified as Auston M. McLain

7. Once in custody, McLain was given his *Miranda* warnings. McLain initially agreed to speak to Agents but shortly thereafter, invoked his right to counsel. Without motivation, McLain made the following statements: "There is no reason in being uncooperative... you guys are gunna get me." McLain also stated: "I'm a sex

offender now" and "I'm going to be a sex offender now." Regarding the conversations with the OCE, McLain stated: "You guys must be working long days... You guys were doing this up to 11:30 last night." McLain repeated, "Wow," multiple times and, "Holy shit."

Conclusion

8. Based on the foregoing, I submit that there is probable cause to believe that between November 10, 2020 and November 14, 2020, Auston M. McLain, using a facility and means of interstate commerce, his cellular telephone to access the Internet, knowingly attempted to persuade, induce, and entice an individual who had not attained the age of 18 years, to engage in a sexual activity for which a person could be charged in violation of 18 U.S.C. 2422(b).

FURTHER AFFIANT SAYETH NOT.


s/Kurt Bendoraitis

Kurt Bendoraitis, FBI Special Agent

Sworn to me over the telephone and signed by me pursuant to Fed.R.Crim.P. 4.1 and 4(d) on November 16, 2020


s/Jonathan E Hawley

JONATHAN HAWLEY, Magistrate Judge

United States District Court