
STATE OF WISCONSIN,

Plaintiff,

CRIMINAL COMPLAINT

vs.

DONALD P. LAFRENIERE, D.O.B. 03/28/1958,

Defendant.

CRIMINAL CHARGE

Count 1: POSSESSION OF CHILD PORNOGRAPHY

The above-named defendant on or about Tuesday, July 26, 2011, in the Town of Menasha, Winnebago County, Wisconsin, did, having attained the age of 18, knowingly possess photograph(s) of a child engaging in sexually explicit conduct, and reasonably should have known that the child was under the age of 18, contrary to sec. 948.12(1m)&(3)(a), 939.50(3)(d) Wis. Stats., **a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.**

And furthermore, invoking the provisions of Wisconsin Statute Section 939.617, upon conviction the Court shall impose a bifurcated sentence including a term of initial confinement for at least three years. The Court may impose a sentence less than three years or place the person on probation upon a finding on the record that the Court finds the lesser sentence is in the best interests of the community and the public will not be harmed.

And furthermore, invoking the provisions of Wisconsin Statute 973.042(2), upon conviction for a crime under 948.05 or 948.12 and the defendant is at least 18 years of age at the time of the commission of the crime, the Court shall impose a surcharge of \$500.00 for each image or each copy of an image, as defined in 973.042(1), associated with the crime. The court shall determine the number of images or copies of images associated with the crime by a preponderance of the evidence and without a jury.

Count 2: POSSESSION OF CHILD PORNOGRAPHY

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AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

J. Goggins/J. Curtis/J. Venne of the Winnebago County District Attorney's Office, being first duly sworn on oath and in that capacity has knowledge of the following:

Your affiant is informed from the reports of the State of Wisconsin Department of Justice Division of Criminal Investigations and the Town of Menasha Police Department kept in the normal and ordinary course of business in which your affiant believes to be truthful and reliable and have proven so on numerous occasions in the past that on or about July 26, 2011 Special Agent Mat Joy of the State of Wisconsin Department of Justice Division of Criminal Investigations (DCI) executed a search warrant at 141 Baldwin Court in the Town of Menasha, Winnebago County, Wisconsin in connection with a child pornography investigation. Special Agent Joy reports that a number of items were found in a side room located off of the garage of the residence including a USB thumb drive.

Special Agent Joy reports that DCI Analyst Christine Byars conducted a preview analysis of the USB thumb drive located at the Baldwin Street address and prepared a preview disc of her findings. Special Agent Joy reports that he observed the disc and found 521 images that were primarily images of pubescent and pre-pubescent girls. Special Agent Joy reports that the images have file creation, last written, and last accessed dates between July 24, 2011 and July 26, 2011. Special Agent Joy reports that some of the images can be described as follows:

Image 6:

An image of a pubescent boy and a pre-pubescent girl who are nude and on a bed. The girl is sitting facing the camera while her head is tilted to the right. The boy is kneeling to the girl's right, his erect penis is placed in the girl's mouth. The girl has no pubic hair or breast development. The boy has pubic hair.

Image 8:

An image of two pre-pubescent children who both appear to be girls with an unknown adult female in the background. The two girls are lying on a bed, nude and lying atop each other. The girl on the bottom is lying on her back, the girl atop has her mouth placed on the genital area of the girl on the bottom while the girl on the bottom has her mouth placed on the genital area of the girl lying on top. The woman in back is holding a chain from the back of the girl who is lying on top. The right breast of the girl on the bottom is visible, the girl has no breast development.

Image 38:

An image of a nude adult male and a nude pre-pubescent girl. The girl is nude and seated atop of the male, directly in front of the male's erect penis. The male is sitting on a chair in a van. The girl is reaching back and her left hand is placed on the male's testicles. The male appears to be kissing the girl.

Image 41:

An image of a pre-pubescent girl who is clothed. The girl's mouth is placed on the semi-erect penis of an unknown adult male.

Special Agent Joy reports that on July 26, 2011 he made contact with one of the residents of 141 Baldwin Court identified as **DONALD P. LAFRENIERE, D.O.B. 03/28/1958**. LaFreniere stated that no one else used the computer located in the shed area by the garage. LaFreniere stated that this was the place where he spent his time and he used the computer to access his Facebook account and download music.

LaFreniere stated that he has downloaded pornography using BearShare. LaFreniere stated that the pornography files were stored to a folder titled "new folder." LaFreniere stated that he believed this was the name of the folder because he had never named it. LaFreniere stated that he had not downloaded pornography files for several months using BearShare.

LaFreniere stated that in order to view a pornography file he would find the name in the folder, click on it, and then it would play in Windows Media Player.

LaFreniere stated that recently he had password protected his computer and re-installed Windows and he stated that he purchased a disk eraser CD to clean the hard drive. LaFreniere stated that he had observed pornography files that had names that were indicative of adult pornography but when he viewed them, he saw they were child pornography. LaFreniere also stated that he had observed files that had names that were indicative of child pornography and that he had accidentally viewed them and then deleted them. LaFreniere stated that this happened on more than one occasion. LaFreniere stated that some of the search terms he used were "PTHC," which Special Agent Joy reports that he knows through training and experience means pre-teen hard core, "preteen" "R@ygold" "hussyfan" and "teens."

LaFreniere stated that he began looking at pornography using BearShare approximately four years ago and out of curiosity had observed child pornography files. LaFreniere stated that he had observed child pornography "a little bit here and a little bit there." LaFreniere stated that he had observed child pornography files of children as young as three or four years old and he had observed child pornography videos and images. LaFreniere stated that in some of the files, the children were "sexually active with men." LaFreniere stated that on a scale of one to ten child pornography was a zero to a one in terms of arousal.

LaFreniere stated that he had deleted the entire "new folder" containing the pornography files several months ago and there may have been some child pornography files in that folder when he deleted it. LaFreniere stated that he had moved some files to another location on the computer but he had not had an opportunity to view all of the files. LaFreniere stated that if he had moved any child pornography files to another location on the computer, it was done by accident.

LaFreniere stated that he had never put child pornography on the USB Drive. Special Agent Joy reports that later in the day on July 26, 2011 he went back to LaFreniere's residence

and LaFreniere asked if he could speak privately to him on the side of the home. Special Agent Joy reports that at that point, LaFreniere told him that there were “probably a few things on the USB.” LaFreniere stated that he had just downloaded those files and had not had a chance to look at them. LaFreniere stated that it was “not gonna be too good, I’m sure.” LaFreniere stated that he was sorry and he stated that it was “stuff he should not have done.” LaFreniere stated that he had placed the images on the thumb drive within the last couple of days and he had obtained the files via BearShare. LaFreniere stated that there were quite a few images of child pornography on there.

It is believed the statements of Donald LaFreniere are made contrary to his penal interest.

All of the above incidents occurred in Winnebago County, Wisconsin.

WHEREFORE, as said affiant verily believes and prays that the said **DONALD P. LAFRENIERE** might be arrested and dealt with according to law.

Complainant

Subscribed and sworn to before
me and approved for filing
this _____ day of _____, 2011.

Defendant’s Date of Birth: **03/28/1958**
Address: **141 BALDWIN CT, TOWN OF MENASHA, WI 54915**
Physical Description: **M / W**

Assistant/Deputy District Attorney
Winnebago County, Wisconsin

Prosecuting Attorney: Tracy A. Pailer/krb
11WN3679

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Dated at Oshkosh, Wisconsin, this _____ day of _____, 2011.

Tracy A. Paider
Assistant District Attorney
Winnebago County, Wisconsin

STATE OF WISCONSIN,

Plaintiff,

-vs-

STATE'S DEMAND FOR DISCOVERY

DONALD P. LAFRENIERE,

Case No.

Defendant.

Pursuant to Section 971.23(2m), Wis. Stats., the State of Wisconsin demands that the defendant or the defendant's attorney, within a reasonable time before trial, disclose to the District Attorney and permit the District Attorney to inspect and copy or photograph all of the following materials and information, if it is within the possession, custody, or control of the defendant:

1. A list of all witnesses, other than the defendant, whom the defendant intends to call at trial, together with their addresses;
2. Any relevant written or recorded statements of a witness named on the Witness List, including any reports or statements of experts made in connection with the case or, if any expert does not prepare a report or statement, a written summary of the expert's findings on the subject matter of his or her testimony, and including the results of any physical or mental examination, scientific test, experiment or comparison that the defendant intends to offer in evidence at trial;
3. The criminal record of a defense witness, other than the defendant, which is known to the defense attorney; and
4. Any physical evidence that the defendant intends to offer in evidence at trial.
5. To provide any reports, statements or documents pertaining to the use of other crimes or wrongs evidence attributed to any other person which the defense intends to introduce at trial, together with a description of the other crimes or wrongs act and it's applicability under Section 904.04(2), Wis. Stats. Pursuant to State v. Sullivan, 216 Wis. 2d 768 (1998) and State v. Oberlander, 143 Wis. 2d 825 (Ct. App. 1988).
6. To provide notice of alibi, pursuant to Section 971.23(8), Wis. Stats.
7. To provide all of the above at least five (5) days prior to any court's scheduling/ jury trial order.

Dated at Oshkosh, Wisconsin, this _____ day of _____, 2011.

Tracy A. Paider
Winnebago County, Wisconsin
P.O. Box 2808
Oshkosh WI 54903-2808

cc: Defense Attorney
file