

No. _____

CR 08 00076 JW

**PVT
E-FILING**

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FILED

FEB 13 2008

CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

THE UNITED STATES OF AMERICA

vs.

FRANK GEMBECK, JR.

INDICTMENT

COUNT ONE: 18: U.S.C. Section 2252(a)(2): Receipt of Child Pornography;

COUNT TWO: 18 U.S.C. Section 2252(a)(4)(B): Possession of Child Pornography

A true bill.

Ramona K. Wills

Foreperson

Filed in open court this 13th day of February

A.D. 2008

Bahica V. Jumbal
United States Magistrate Judge

arrest warrant

Bail. \$ NO Bail

*RJ
PW*

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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
FRANK GEMBECK, JR.,
Defendant.

CR

No. CR 08 00076 JWPVT

VIOLATIONS:

18 U.S.C. § 2252(a)(2)(A) - Receipt of
Child Pornography; 18 U.S.C. §
2252(a)(4)(B) - Possession of Child
Pornography; 18 U.S.C. §§ 2253(a)(1) &
(a)(3) - Criminal Forfeiture

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

COUNT ONE

On or about May 12, 2006, in the Northern District of California, the defendant,

FRANK GEMBECK, Jr.,

did knowingly and intentionally receive child pornography that had been transported or shipped
in interstate commerce by any means, including by computer, in violation of Title 18, United
States Code, Section 2252(a)(2)(A) and 2252(b)(1).

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INDICTMENT

1 COUNT TWO

2 On or about May 12, 2006, in the Northern District of California, the defendant,

3 FRANK GEMBECK, Jr.,

4 did knowingly and intentionally possess matter which contains any visual depiction of a minor
5 engaging in sexually explicit conduct that has been mailed, or shipped or transported in interstate
6 or foreign commerce by any means including by computer in violation of Title 18, United States
7 Code, Section 2252(a)(4)(B) & 2252(b)(2).

8 FORFEITURE ALLEGATION: (18 U.S.C. §§ 2253(a)(1) and (a)(3) - Criminal Forfeiture)

9 Upon a conviction for the offense alleged above, the defendant,

10 FRANK GEMBECK Jr.,

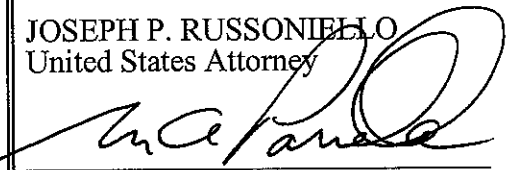
11 shall forfeit to the United States, pursuant to Title 18, United States Code, Section 2253(a)(1)
12 and (a)(3) all visual depictions described in Title 18, United States Code Section 2252A, and all
13 property, real or personal, used or intended to be used to commit or promote the commission of
14 the offenses of conviction, including but not limited to a Dell Dimension desktop personal
15 computer, model 4700, serial number OX6252-70821-4AP-G6MQ; Fuji Film DVD+R labeled
16 "Y1 AK 7-28-05", Fuji Film DVD+R labeled "Y2 AK 7-28-05", Fuji film DVD+R labeled "Y3
17 AK 7-28-05" , and any other computer storage media that were seized from the defendant's
18 residence.

19
20 Dated: February 13, 2008

A TRUE BILL.

21 
22 FOREPERSON

23 JOSEPH P. RUSSONIELLO
24 United States Attorney

25 
26 MATTHEW A. PARRELLA
27 Chief, San Jose Branch Office

28 (Approved as to form: 
AUSA Richard C. Cheng

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

OFFENSE CHARGED

18 U. S. C. § 2252(a)(2)(A) - Receipt of Child Pornography- Mandatory minimum 5 years imprisonment, but not more than 20 years.

- Petty
 Minor
 Misdemeanor
 Felony

DEFENDANT - U.S.

FRANK GEMBECK, JR.

DISTRICT COURT NUMBER

CR 08 00076 JW PVT

PENALTY: (18 U.S.C. § 2252(a)(2)(A) Class C Felony); \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment. 18 U. S. C. § 2252(a)(4)(B) - Possession of Child Pornography- 10 years imprisonment (Class C Felony); \$250,000 fine; 3 years supervised release; \$100 mandatory special assessment.

DEFENDANT

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

- 1) If not detained give date any prior summons was served on above charges
2) Is a Fugitive
3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
5) On another conviction } Federal State
6) Awaiting trial on other charges
If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

This report amends AO 257 previously submitted

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

San Jose FBI - SA Wade Luders

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. ATTORNEY DEFENSE

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on this form JOSEPH P. RUSSONIELLO

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) RICHARD CHENG

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: No Bail

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments: