

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ORIGINAL

12 MAR -9 PM 3:44

(Name, address or brief description of person or property to be searched)

Google Inc.

Google Legal Investigative Support

1600 Amphitheatre Parkway

Mountain View, CA 94043

Phone number: 650-253-3425

Fax number: 650-649-2939

Custodian of Records Fax number: 650-249-3429

Email address: legal-support@google.com

BY:

DEPUTY

Case No.

12MJ0882

**APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT**

I, JONATHAN R. CUPINA, being duly sworn, depose and say:

I am a Special Agent with the FEDERAL BUREAU OF INVESTIGATION and have reason to believe that on the property or premises known as (name, description and/or location)

See ATTACHMENT A


in the SOUTHERN District of CALIFORNIA there is now concealed a certain person or property, namely (describe the person or property)

See ATTACHMENT B

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure) evidence concerning violations of 18 United States Code § 1952 (Use of Facility of Interstate Commerce to Engage in Prostitution)

The facts to support a finding of Probable Cause are as follows:

See Affidavit attached and made a part thereof. ☒ Yes ☐ No


Signature of Affiant

Sworn to before me, and subscribed in my presence

3-9-12 at San Diego CA
Date City and State

Nita L. Stormes at Nita L. Stormes
Name and Title of Judicial Officer Signature of Judicial Officer

**HON. NITA L. STORMES
U.S. MAGISTRATE JUDGE**

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT APPLICATION

I, Jonathan R. Cupina, Special Agent (SA) of the Federal Bureau of Investigation (FBI), being duly sworn, depose and say:

1. I am currently assigned to the San Diego Division of the FBI where my duties include investigating civil rights violations and human trafficking crimes.

2. This affidavit is in support of an application for a warrant authorizing GOOGLE INC. ("Google"), as described in ATTACHMENT A, to provide law enforcement with any and all means of gaining access, including login and password information, password reset, and/or manufacturer default code ("PUK"), in order to obtain the complete contents of the memory of cellular telephone described below and in ATTACHMENT B. Additionally, I am requesting all current subscriber and other account information pertaining to the identity of the registrant of the Google account.

4. The items requested to be seized are as follows:

- a. All current email subscriber information including subscriber name(s), subscriber(s) address and any other information pertaining to the identity of the subscriber(s), including but not limited to the billing information including credit card number(s) and type(s), social security identification number, account login and password information and other identifying information for cellular telephone: SAMSUNG model SGH-T679, serial number: R26BA40683A, International Mobile Equipment Identity ("IMEI") number: 358355/04/046097/0, SAMSUNG SIM card number: 8901260533581973050, for the dates of June 1, 2011 through January 17, 2012.
- b. All email and personal contact list information on file for cellular telephone: SAMSUNG model SGH-T679, serial number: R26BA40683A, International Mobile Equipment Identity (IMEI) number: 358355/04/046097/0, SAMSUNG SIM card number: 8901260533581973050, for the dates of June 1, 2011 through January 17, 2012. Some carriers provide an option for the end user to pay a fee to have the carrier keep a back-up of the user's Contact List. If that is on file for this cellular telephone, provide all information contained therein.

- c. Provide times and duration of the user's access on the internet and if applicable any web pages visited as well as any Internet Protocol (IP) addresses accessed through Google's records. Provide what IP address was accessed for cellular telephone: SAMSUNG model SGH-T679, serial number: R26BA40683A, International Mobile Equipment Identity (IMEI) number: 358355/04/046097/0, SAMSUNG SIM card number: 8901260533581973050, for the dates of June 1, 2011 through January 17, 2012.
- d. Provide all times, content, verbiage and wording or the given instant and "text" messaging including photos or videos sent or received for cellular telephone: SAMSUNG model SGH-T679, serial number: R26BA40683A, International Mobile Equipment Identity (IMEI) number: 358355/04/046097/0, SAMSUNG SIM card number: 8901260533581973050, for the dates of June 1, 2011 through January 17, 2012.
- e. Provide any e-mail address(s) or instant messenger "text" address(s), codes or identities indicated or on file for the cellular telephone: SAMSUNG model SGH-T679, serial number: R26BA40683A, International Mobile Equipment Identity (IMEI) number: 358355/04/046097/0, SAMSUNG SIM card number: 8901260533581973050, for the dates of June 1, 2011 through January 17, 2012.
- f. Provide the manufacturer's default code (PUK) and/or verbal and/or written instructions for overriding the "pattern lock" installed on the SAMSUNG model SGH-T679 that will allow access to cellular telephone serial number: R26BA40683A, International Mobile Equipment Identity (IMEI) number: 358355/04/046097/0, SAMSUNG SIM card number: 8901260533581973050.
- g. Provide e-mail, search terms, internet history, gps locations, and all other information Google collects or has collected on cellular telephone: SAMSUNG model SGH-T679, serial number: R26BA40683A, International Mobile Equipment Identity (IMEI) number: 358355/04/046097/0, SAMSUNG SIM card number: 8901260533581973050.
5. The location, property, and records to be searched are located at and described as: Google Inc., Google Legal Investigations Support, 1600 Amphitheatre Parkway, Mountain View, CA 94043, telephone number (650) 253-3425, fax number: (650) 649-2939, Custodian of Records fax number: (650) 249-3429, email address, legal-support@google.com.

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FACTUAL BACKGROUND

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2 1. This case involves DANTE DEARS as the primary subject of a
3 federal human trafficking investigation. DEARS is a founding member
4 of the "Pimpin' Hoes Daily" (PhD) gang organization, an association
5 in fact of persons who claim to be PhD, a criminal street gang as
6 defined by California Penal Code Section 186.22. DEARS was released
7 from state prison in January, 2009 after serving four years for his
8 role as a founder of PhD. Following his initial sentence, DEARS
9 violated the conditions of his parole on three separate occasions,
10 resulting in an additional year and a half of prison time. DEARS was
11 finally released on or about May 20, 2011. Soon after, DEARS began
12 communicating with a Confidential Human Source (CHS) who reported to
13 the FBI on DEARS' continued human trafficking activities.

14 2. DEARS has an extensive criminal history including gang
15 associations, kidnaping, and pimping. He is a registered sex offender
16 pursuant to Cal. Penal Code Sec. 290. As a condition of parole, DEARS
17 must wear a GPS/electronic monitor in accordance with Cal. Penal Code
18 Secs. 3010, 3010.1, 3010.5, and 3010.7 until January 2013. Dears is
19 also on a Fourth Amendment consent to search waiver. This waiver is
20 defined in Dears' "Notice and Conditions of Parole" (California
21 Department of Corrections form CDC 1515) as follows: "You and your
22 residence and any property under your control may be searched without
23 a warrant by an agent of the Department of Corrections or any law
24 enforcement officer".

25 3. The information contained in this affidavit is based upon
26 my personal knowledge and what has been learned from reviewing
27 official reports, speaking with local and federal law enforcement
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1 officers, and the Source who had direct, personal interaction with
2 Dears when alleged criminal activity took place. These facts may not
3 represent all of the facts gathered to date, but only those necessary
4 to establish probable cause to obtain the warrant to search the
5 cellular telephone.

6 4. Beginning in May 2011, Dears began communicating with a
7 Source who reported to the FBI on Dears' continued human trafficking
8 activities. The Source had been previously vetted and maintained good
9 access to Dears and other associates operating in the realm of human
10 trafficking. Through personal interaction and conversations, the
11 Source witnessed Dears discussing business on a cellular telephone on
12 multiple occasions. On June 10, 2011, the Source met with Dears at his
13 residence located at 578 Anita Street, Apartment 2, Chula Vista, CA
14 91911. During a nearly three-hour meeting, the Source noted activity
15 in the apartment consistent with human trafficking. The Source
16 observed Dears taking several telephone calls where he discussed the
17 night's prostitution activities. He also sent multiple text messages
18 throughout the evening. Shortly after sending a message, a woman would
19 arrive at the apartment and give Dears money. Subsequently, Dears
20 texted another message, and another woman showed up and gave him
21 money. The Source overheard Dears asking one of the women, "How much
22 is in the account?" She responded, "Three". Based on my knowledge of
23 human trafficking activities, "Three" refers to \$300.00.

24 5. On January 11, 2012, I conducted physical surveillance on
25 Dears, accompanied by other FBI Agents, Task Force Officers, and
26 California State Parole Agent Carlos Meneses (Agent Meneses). Agent
27 Meneses is the Parole Agent assigned to Dears. Those participating in
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1 the surveillance witnessed Dears utilizing a cellular telephone
2 frequently for a period of nearly six hours. For months prior to the
3 surveillance, Dears denied possessing a cellular telephone, despite
4 being asked repeatedly by Agent Meneses.

5 6. On or about January 17, 2012, Agent Meneses encountered
6 Dears' at his residence, again utilizing a cellular telephone
7 resembling the phone previously observed in surveillance. When asked
8 about the telephone, Dears initially claimed it belonged to his
9 sister. Upon further questioning, Dears relinquished the telephone
10 to Agent Meneses but refused to allow him access to it or answer any
11 further questions.

12 7. On January 20, 2012, Dears met with Agent Meneses to obtain
13 a receipt acknowledging Agent Meneses' possession of the telephone.
14 In speaking with the Special Agents of the FBI, Agent Meneses
15 indicated that, during the meeting, Dears was "nervous" and "shaking",
16 but maintained his silence when asked about the cellular telephone in
17 his possession. Beginning on or about January 17, 2012, Agent Meneses
18 has maintained control of the cellular telephone in question; SAMSUNG
19 model SGH-T679, serial number: R26BA40683A, International Mobile
20 Equipment Identity (IMEI) number: 358355/04/046097/0, SAMSUNG SIM card
21 number: 8901260533581973050.

22 8. Dears' refusal to allow Agent Meneses access to the cellular
23 telephone is itself a violation of his conditions of parole. Listed
24 on the California Department of Corrections and Rehabilitation
25 Addendum form (CDCR 1515 Addendum) in block 93 under "Computer Use and
26 Electronic Media" it states: "You shall not use any method to hide or
27 prevent unauthorized users from viewing specific data or files; i.e.,
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1 encryption, cryptography, steganography, compression, password
2 protected files. Log in and password information shall be provided to
3 your parole agent upon request". Dears initials appear in the
4 signature box next to this provision dated May 20, 2011.

5 9. In my experience and the experience of other agents who have
6 investigated crimes involving prostitution, cellular telephones are
7 the primary means of communication. Business is able to be conducted
8 anonymously, and pimps often speak with and text written messages to
9 their prostitutes while negotiating with potential customers.
10 Additionally, many cellular telephones are today equipped with
11 internal digital cameras and are able to access the internet;
12 providing a pimp or prostitute the ability to create and upload a
13 posting on any number of adult services web-sites. These web-sites are
14 commonly used in human trafficking crimes to advertise the sexual
15 services of a prostitute by a pimp. Because Dears' physical movement
16 is limited due to the GPS/electronic monitor, and he is not authorized
17 to interact with anyone with known ties to gang activity or
18 prostitution, he is relegated to what is known as "telephone pimping".
19 Telephone pimping is a slang term used to describe a pimp who does not
20 actively walk the streets with his prostitutes, and must therefore
21 conduct most of his business over the telephone.

22 10. Based upon the information set forth above, on February 13,
23 2012, the Honorable William V. Gallo issued a search warrant for the
24 cellular telephone seized from Dears by Agent Meneses. The search
25 warrant was subsequently served on Agent Meneses later that same day.
26 At that time, the cellular telephone in question was obtained by
27 investigating agents of the FBI. On February 14, 2012, with the
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1 assistance of Regional Computer Forensics Lab (RCFL) technicians,
2 investigating agents attempted to gain access to the contents of the
3 memory of the cellular telephone in question, but were unable to do
4 so.

5 11. The need for this search warrant arose once the information
6 contained on the memory of the cellular telephone seized from Dears
7 was not able to be obtained, despite multiple attempts by RCFL
8 technicians. Failure to gain access to the cellular telephone's memory
9 was caused by an electronic "pattern lock" programmed into the
10 cellular telephone. A pattern lock is a modern type of password
11 installed on electronic devices, typically cellular telephones. To
12 unlock the device, a user must move a finger or stylus over the keypad
13 touch screen in a precise pattern so as to trigger the previously
14 coded un-locking mechanism. Entering repeated incorrect patterns will
15 cause a lock-out, requiring a Google email login and password to
16 override. Without the Google email login and password, the cellular
17 telephone's memory can not be accessed. Obtaining this information
18 from Google, per the issuance of this search warrant, will allow law
19 enforcement to gain access to the contents of the memory of the
20 cellular telephone in question.

21 12. Dears' access to the cellular telephone, extended usage
22 thereof while under surveillance, and possession at the time of
23 confiscation, indicates a high probability of obtaining evidence of
24 Dears' personal information and usage relevant to his alleged
25 trafficking activities.

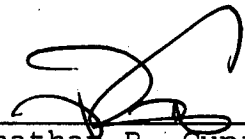
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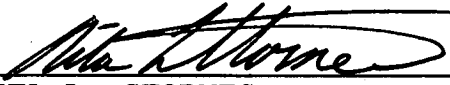
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1 13. Due to the nature and sensitivity of the investigation, it
2 is requested that neither Dears nor any other subscriber of the above
3 mentioned cellular telephone be notified by any means of communication
4 regarding the information being requested by or provided to law
5 enforcement.

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8 Dated: March 4, 2012


Jonathan R. Cupina
Special Agent
Federal Bureau of Investigation

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11 Sworn to before me and subscribed in my presence this 9th day
12 of March, 2012.

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14 
NITA L. STORMES
United States Magistrate Judge
Southern District of California

ATTACHMENT A

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ATTACHMENT B

The records sought to be obtained are evidence of violations of Title 18, United States Code, Section 1952 :

a. All current email subscriber information including subscriber name(s), subscriber(s) address and any other information pertaining to the identity of the subscriber(s), including but not limited to the billing information including credit card number(s) and type(s), social security identification number, account login and password information and other identifying information for cellular telephone: SAMSUNG model SGH-T679, serial number: R26BA40683A, International Mobile Equipment Identity (IMEI) number: 358355/04/046097/0, SAMSUNG SIM card number: 8901260533581973050, for the dates of June 1, 2011 through January 17, 2012.

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1 c. Provide times and duration of the user's access on
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6 T679, serial number: R26BA40683A, International Mobile
7 Equipment Identity (IMEI) number: 358355/04/046097/0,
8 SAMSUNG SIM card number: 8901260533581973050, for the
9 dates of June 1, 2011 through January 17, 2012.

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11 d. Provide all times, content, verbiage and wording or
12 the given instant and "text" messaging including photos
13 or videos sent or received for cellular telephone:
14 SAMSUNG model SGH-T679, serial number: R26BA40683A,
15 International Mobile Equipment Identity (IMEI) number:
16 358355/04/046097/0, SAMSUNG SIM card number:
17 8901260533581973050, for the dates of June 1, 2011
18 through January 17, 2012.

19
20 e. Provide any e-mail address(s) or instant messenger
21 "text" address(s), codes or identities indicated or on
22 file for the cellular telephone: SAMSUNG model SGH-
23 T679, serial number: R26BA40683A, International Mobile
24 Equipment Identity (IMEI) number: 358355/04/046097/0,
25 SAMSUNG SIM card number: 8901260533581973050, for the
26 dates of June 1, 2011 through January 17, 2012.
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1 f. Provide the manufacturer's default code (PUK)
2 and/or verbal and/or written instructions for
3 overriding the "pattern lock" installed on the
4 SAMSUNG model SGH-T679 that will allow access to
5 cellular telephone serial number: R26BA40683A,
6 International Mobile Equipment Identity (IMEI)
7 number:358355/04/046097/0, SAMSUNG SIM card
8 number:8901260533581973050.
9

10 g. Provide e-mail, search terms, internet history, gps
11 locations, and all other information Google collects or
12 has collected on cellular telephone: SAMSUNG model SGH-
13 T679, serial number: R26BA40683A, International Mobile
14 Equipment Identity (IMEI) number:358355/04/046097/0,
15 SAMSUNG SIM card number: 8901260533581973050.
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