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CENTRAL U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

June 2014 Grand Jury

CR 14 00368

UNITED STATES OF AMERICA,

CR No. 14

Plaintiff,

I N D I C T M E N T

v.

[18 U.S.C. §§ 2261A(2) (A) and 2261(b) (5): Stalking; 18 U.S.C. §§ 1030(a) (2) (C), (b), (c) (2) (B) (ii): Unauthorized Access to a Protected Computer to Obtain Information in Furtherance of a Criminal Act; 18 U.S.C. § 1028A(a) (1): Aggravated Identity Theft; 18 U.S.C. § 1519: Destruction of Records in a Federal Investigation; 18 U.S.C. § 2(b): Causing an Act to Be Done]

DAVID ELAM,

Defendant.

The Grand Jury charges:

COUNT ONE

[18 U.S.C. §§ 2261A(2) (A) and 2261(b) (5)]

1. Between on or about May 8, 2013, and on or about July 19, 2013, in Los Angeles County, within the Central District of California, and elsewhere, defendant DAVID ELAM ("ELAM"), while outside of the State of California and with the intent to harass and to cause substantial emotional distress to a person, identified

1 herein as "N.A.," in another state, namely, California, used
2 facilities of interstate commerce, including cellular telephone
3 networks, electronic mail ("e-mail"), interstate wires, and the
4 Internet, to engage in a course of conduct, described in paragraph 2
5 below, that caused substantial emotional distress to N.A.

6 DESCRIPTION OF COURSE OF CONDUCT

7 2. Defendant ELAM's course of conduct included, among other
8 things, the following

9 a. On or about May 8, 2013, defendant ELAM sent N.A. the
10 following text message: "Please don't do this. Please don't mess
11 with my stuff. I'm sure you have better things to do. Both of us
12 would rather me feel sorry for you than pissed at you."

13 b. On or about May 8, 2013, defendant ELAM sent N.A. the
14 following text message: "Plus if my email/iTunes/Facebook is
15 compromised that would allow people to see vids, pics, messages
16 neither of us want people to see . . ."

17 c. On or about May 8, 2013, defendant ELAM said the
18 following to N.A. over the telephone: "Fuck you. . . I mean like,
19 fuck this whatever. . . you're done you're ruined cause I will see to
20 it after this. . . fuckin. . . I'll put it this way, fuckin. . . it
21 would take an act of fuckin God for you to pass the bar. It would
22 take an act of God for you to make it through law school without
23 killing yourself after what I do to you."

24 d. On or about May 8, 2013, defendant ELAM used the
25 Internet to change and attempt to change the login and password to
26 N.A.'s Facebook account.

27 e. On or about May 9, 2013, defendant ELAM used the
28 Internet to create an OkCupid account in a name close to N.A.'s name.

1 The OkCupid account contained, among other things, the following
2 items:

- 3 i. suggestive photographs of N.A.;
- 4 ii. photographs of a used sexual toy;
- 5 iii. demeaning statements, purportedly made by N.A.,
6 such as --

7 (a) "Question - Regardless of future plans,
8 what's more interesting to you right now? Answer - sex."

9 (b) "Question - How willing are you to meet
10 someone from OkCupid in person? Answer - Totally willing!"

11 (c) "Question - Would you consider sleeping
12 with someone on the first date? Answer - yes."

13 (d) "Question - Rate your self-confidence:
14 Answer - Below average."

- 15 iv. statements to OkCupid users, purportedly made by
16 N.A., including divulging her true personal cell phone number and
17 encouraging the users to visit N.A. for sexual purposes,
18 such as --

19 (a) "I'll be honest with you. I've been studying
20 for the past 72 hours straight. I'm sexually frustrated and tired.
21 Lets cut the bullshit and chivalry act. I just need a good clean
22 hookup."

23 (b) "I can hang out tomorrow after my final. In
24 the mean time text me a pic/appetizer for tomorrow. Ill be your
25 dessert."

26 (c) "You should just come over. I could use a
27 study break. Hopefully you'll break me off. Can I get a taste of what
28 I'll be tasting tonight? Pic please."

1 f. On or about May 10, 2013, defendant ELAM used the
2 Internet to create an account on the pornographic website
3 xhamster.com in a name close to N.A.'s name. Defendant ELAM uploaded
4 to the xhamster.com account at least one sexually explicit video of
5 N.A. entitled "N.A. plays with her haggard snatch."

6 g. On or about May 10, 2013, defendant ELAM used the
7 Internet website www.addthis.com to send e-mails in other
8 individuals' names to N.A.'s mother and law school classmate, which
9 e-mails contained a link to a pornographic website where a sexually
10 explicit video of N.A. had been posted.

11 h. On or about May 12, 2013, defendant ELAM used the
12 Internet to upload to the pornographic website hardsextube.com at
13 least one sexually explicit video of N.A. entitled "N.A. rubs haggard
14 snatch."

15 i. On or about June 10, 2013, defendant ELAM used the
16 Internet to file a complaint with the Santa Monica Police Department
17 asserting that N.A. was distributing prescription medication and
18 marijuana from her residence and at N.A.'s law school campus.

19 j. On or about June 25, 2013, defendant ELAM used the
20 Internet to upload to the pornographic website www.ugotposted.com
21 nude photographs and a sexually explicit video of N.A., and links to
22 N.A.'s true e-mail, Facebook, Instagram, and LinkedIn accounts.

23 k. On or about July 19, 2013, defendant ELAM used the
24 Internet to upload to the pornographic website motherless.com a
25 sexually explicit video of N.A.

COUNT TWO

[18 U.S.C. §§ 1030(a)(2)(C), (b), (c)(2)(B)(ii)]

3. The Grand Jury hereby repeats and realleges paragraph 2 of this Indictment.

4. On or about May 8, 2013, in Los Angeles County, within the Central District of California, and elsewhere, defendant DAVID ELAM ("ELAM") intentionally accessed a computer without authorization and exceeded authorized access to a computer, and attempted to intentionally access a computer without authorization and exceed authorized access to a computer, and thereby obtained electronically, in furtherance of a criminal act, namely, the stalking of victim N.A., in violation of 18 U.S.C. §§ 2261A(2)(A) and 2261(b)(5), as alleged in Count One above, information from a protected computer, as that term is defined in 18 U.S.C. § 1030(e)(2), namely, information on a computer related to a Facebook account in the name of victim N.A.

COUNT THREE

[18 U.S.C. § 1028A(a)(1)]

5. The Grand Jury hereby repeats and realleges paragraphs 2 and 4 of this Indictment.

6. On or about May 8, 2013, in Los Angeles County, within the Central District of California, and elsewhere, defendant DAVID ELAM ("ELAM") knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, that is, the username and security answer of N.A., during and in relation to Unauthorized Access to a Protected Computer to Obtain Information in Furtherance of a Criminal Act, a felony violation of Title 18, United States Code, Sections 1030(a)(2)(C), (b), and (c)(2)(B)(ii), as charged in Count Two above.

COUNT FOUR

[18 U.S.C. §§ 1519, (2)(b)]

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3 7. The Grand Jury hereby repeats and realleges paragraph 2 of
4 this Indictment.

5 8. Between on or about September 17, 2013, and September 24,
6 2013, in Los Angeles County, within the Central District of
7 California, and elsewhere, defendant DAVID ELAM ("ELAM") knowingly
8 altered, destroyed, concealed, and covered up, and willfully caused
9 to be altered, destroyed, concealed, and covered up, documents,
10 records, and tangible objects, specifically, the contents of an
11 iPhone IMEI #013425003421868. In so doing, defendant ELAM acted with
12 the intent to impede, obstruct, and influence, and in relation to and
13 in contemplation of, the investigation and proper administration of a
14 matter within the jurisdiction of the Federal Bureau of
15 Investigation, an agency of the United States, namely, an

16 //

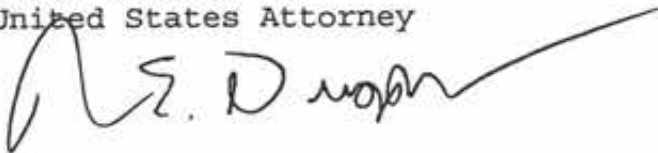
17 //

1 investigation into the stalking of N.A. by defendant ELAM led by the
2 Federal Bureau of Investigation's Los Angeles Field Office.

3
4 A TRUE BILL

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6 151
7 Foreperson

8 ANDRÉ BIROTTE JR.
9 United States Attorney

10 

11 ROBERT E. DUGDALE
12 Assistant United States Attorney
13 Chief, Criminal Division

14 WESLEY L. HSU
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16 Chief, Cyber & Intellectual
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18 TRACY WILKISON
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28