

MEMORANDUM IN SUPPORT

I. FACTS

On or about April 19, 2006, Defendant was indicted with two counts of attempted distribution of child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(A), four counts of receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(A), and three counts of possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

On or about June 21, 2006, a superseding indictment was issued where the Defendant was indicted with one count of attempted transportation of child pornography, in violation of 18 U.S.C. § 2252A(a)(1) and 18 U.S.C. § 2252A(b)(1), five counts of receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(A), and one count of possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B). (Please see copy of superseding indictment attached hereto as Exhibit **A**).

On or about July 17, 2006, Defendant filed a Motion for Independent Analysis, which was subsequently denied on or about July 27, 2006. Additionally, on or about July 27, 2006, President George W. Bush authorized H.R.4472 which denies any request by the defendant to conduct their own independent analysis of alleged contraband containing child pornography. (Please see copy of H.R.7742 as Exhibit **B**).

II. LAW AND ARGUMENT

A. AS AN OFFICER OF THE COURT, A DEFENSE ATTORNEY IS ENTITLED TO CONTROL MATERIAL ALLEGED TO BE CHILD PORNOGRAPHY.

On or about July 27, 2006 President George W. Bush provided authorization to enact H.R.4472 preventing the Defendant from conducting an independent analysis of alleged contraband containing child pornography. The Defendant maintains that H.R.4472 is unconstitutional as it is fundamentally unfair and prejudicial to the Defendant's preparation of an adequate defense. Sec. 604 of H.R.4472 amends 18 U.S.C. § 3509 by adding at the end the following:

(m) Prohibition on Reproduction of Child Pornography

(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title) must remain in the case, custody, and control of either the Government or the court.

The Defendant submits that permitting the Defense to conduct their own inspection of the alleged contraband materials does not violate subsection (m)(1) of 18 U.S.C. § 3509. Criminal defense attorneys are officers of the court and should be permitted to conduct their own investigation and analysis of said materials. "A lawyer is a representation of clients, an officer of the legal system, and a public

citizen having special responsibility for the quality of justice.” Model Rules of Professional Conduct, preamble (1984); See also, Halloway v. Arkansas (1978), 435 U.S. 475, 485-86; Powell v. Arkansas (1932), 287 U.S. 45, 73 ¹. As a result, the defense should be held to the same standard as any attorney or government official entrusted by the court. Difference in treatment is not warranted. The Defense’s appointed forensic experts conduct their analysis in a safe and secured laboratory where only the investigating experts are granted access to the testing facility. Furthermore, any and all results of said analysis are kept completely confidential. At no point in time has the Defense counsel or the appointed forensic examiners created a situation where information *not* remained confidential. There is no reason to believe that defense counsel or the forensic expert cannot be trusted with the material. United States v. Hill (C.D. Cal. 2004) 322 F.Supp.2d 1081, 1091. As a result of the amended subsection (m)(1) granting authority for officers of the court to control alleged contraband containing child pornography, Defense counsel, an officer of the court, should be permitted to conduct an independent analysis of said material.

B. THE DEFENDANT HAS A PRESUMPTION OF INNOCENCE.

The Defendant maintains that he is innocent until proven guilty and conducting an independent analysis is essential to the preservation of a fair trial. It has been traditionally held as a basis for the legal system that an accused criminal defendant is presumed innocent until proven guilty. See Alford v. United States (1931), 282 U.S. 687, 689; Hopt v. Utah (1887), 120 U.S. 430, 439; Cannon v.

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The Supreme Court of Ohio holding that defense attorney’s are officers of the court and have a duty to render service to the accused.

United States (1885), 116 U.S. 55, 66. In Coffin v. United States (1895), 156 U.S. 432, 458-459², the Supreme Court of the United States stated that “the presumption of innocence is a conclusion drawn by the law in favor of the citizen, by virtue whereof, when brought to trial upon a criminal charge, he must be acquitted, unless he is proven to be guilty. In other words, this presumption is an instrument of proof created by the law in favor of one accused, whereby his innocence is established until sufficient evidence is introduced to overcome the proof which the law has created.” Id. See also Dodson v. U.S. (4th Cir. 1928) 23 F.2d 401, 402. Furthermore, the Defendant asserts that permitting his forensic experts to conduct an independent analysis is essential for the preparation of an adequate defense. The preparation of said defense is essential to assure both fairness and reliability in the establishment of guilt or innocence. Therefore, in the interest of preserving the presumption of innocence, the Defendant has the right to prepare an adequate defense, and can only do so through an independent analysis of the alleged contraband.

C. H.R.4472 SECTION 604 CONTRADICTS RULE 16 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.

H.R.4472 Section 604 further amends 18 U.S.C. § 3509 by adding the following :

(2)(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title),

so long as the Government makes the property or material reasonably available to the defendant.

The Defendant takes the position that the amended subsection (2)(A) is confusing and misguided as it contradicts Rule 16 of the Federal Rules of Criminal Procedure. On or about July 17, 2006 the Defendant filed a Motion for Independent Analysis that made a request pursuant to Rule 16. Federal Rule 16 provides in relevant part:

Upon a defendant's request, the government must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items, if the item is within the government's possession, custody and control and: (i) the item is material to the preparing the defense; (ii) the government intends to use the item in its case-in-chief at trial; or (iii) the item was obtained from or belongs to the defendant.

Fed.R.Crim.P. 16(a)(1)(E)

The Defendant made this request pursuant to Rule 16 in order to receive a copy of the alleged contraband. Rule 16 specifically states that the defendant is permitted to copy material within the government's possession if the item is material to the preparation of a defense. Id. An independent analysis of the alleged contraband is essential to the preparation of an adequate defense, therefore, the Defendant contends that he is entitled to said material pursuant to Rule 16 of the Federal Rules of Criminal Procedure. As such, subsection (2)(A) is contradictory to Rule 16, and the Defendant should be entitled to copy items essential to the preparation of his defense, as Rule 16 specifically provides.

D. H.R.4472 § 604. ET SEQ IS FUNDAMENTALLY UNFAIR AND PREJUDICIAL TO DEFENDANT.

Defense counsel is aware that the Defendant's argument incorporated herein was raised, in part, in the Defendant's Motion for Independent Analysis of Physical Evidence and Protective Order. However, defense counsel feels it is necessary to highlight the issues in this Supplemental Motion for appellate purposes, and in order to preserve the issues raised in said prior motion. H.R.4472, section 604 further reads in part:

(B) For the purposes..., property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual may seek to qualify to furnish expert testimony at trial.

Id.

The Defendant has the absolute right to the counsel and expert witness of his choice, regardless of where he is geographically located. See, e.g., United States v. Gonzalez-Lopez (2006), 126 S.Ct. 2557 (holding that the appellate court's denial of the defendant's right to the counsel of his choice was reversible error) (attached hereto as Exhibit **C**). The Defendant has the absolute right to verify the integrity of the investigating agencies, the validity of the investigative techniques, and the sufficiency of the evidence obtained. To effectively do this, the Defendant's forensic experts must have the opportunity to examine the system. If the Defendant's examiner performs the necessary operations required to prepare a defense at a governmental facility as H.R. 4472 § 604 requires, the Defendant would essentially be divulging the specific tasks necessary or information sought to the Government,

thus violating the work-product doctrine and resulting in unfair prejudice to the Defendant.

The Defendant will be seriously prejudiced if his counsel and expert are denied duplicate copies of the alleged contraband materials. See Hill, 322 F.Supp.2d at 1091. Hill held that counsel cannot be expected to provide a defendant with competent representation unless counsel and his expert have repeated access to the materials. Id. at 1092. Hill also stated that the defense expert needs to use his own equipment, and cannot be expected to complete the entire extensive analysis in one visit to the FBI office, as a thorough analysis is extremely time-consuming. Id. The requirement of H.R.4472 § 604 for courts to deny the defense counsel's request for a duplicate copy of the alleged contraband and the purported "reasonable" access to the material at a governmental facility directly contradicts the holding in Hill and is fundamentally unfair and prejudicial to the Defendant. See id; see also United States v. Cadet (E.D.N.Y. 2006), 423 F.Supp. 2d 1 (holding that there is a much greater likelihood that the defendant would be harmed in his ability to prepare a defense by limited access to alleged contraband on the government's terms); see also United States v. Aldeen (2006) 2006 WL 752821 (holding denying defense counsel and his expert a duplicate copy of alleged contraband would be unduly burdensome to the defendant)(attached hereto as exhibit **D**); United States v. Fabrizio (D.Mass 2004), 341 F.Supp.2d; United States v. Kirzhner, No. 02-cr-38, slip op (E.D.N.Y. June 14, 2002)(attached hereto as exhibit **E**).

The Defendant maintains that H.R.4472 § 604 creates an inadequate opportunity to conduct the necessary complex procedures if required to use a government facility. Any examinations conducted on a government system, such as an FBI computer, will leave behind a roadmap of the processes and results on that computer's hard disk drive, providing the government with access to the Defendant's work product. See Fabrizio, 341 F.Supp.2d at 49.

Requiring the Defendant's expert to view the alleged contraband at a governmental facility would be unduly burdensome and costly to the Defendant. The Defendant has the absolute right to an expert examiner of his choice. The Defendant's expert is located in the State of Ohio and it would be extremely burdensome, costly and unduly prejudicial to the Defendant to require his defense counsel and his expert to travel repeatedly from Ohio to Virginia in compliance with H.R. 4472, section 604. Furthermore, H.R. 4472 § 604 et seq. implies that in granting the Defendant's motion for independent physical analysis, further harm is done to the alleged minors depicted in the alleged contraband because of continued circulation of said images. There is an implication in this section that defense attorneys and their experts are less sensitive to the harm to children caused by continued circulation of the alleged contraband and thus, are less responsible to prevent it than an attorney for the government. See, e.g. Cadet, 423 F.Supp. 2d at *3 (*holding that there is no greater risk of harm to children in granting defense counsel a copy of the alleged contraband for preparation of its defense under a suitable protective order than exists in the government's maintenance and use of the files in preparation for its own case*)(emphasis added).

Moreover, private citizens affiliated with and/or employed by the National Center for Missing and Exploited Children (NCMEC) have repeated access to alleged contraband and are granted immunity from both civil and criminal liability.

See H.R. 3132 §§ 132, 133. H.R. 3132, section 132 reads, in part:

Notwithstanding any other provision of law, the Attorney General shall ensure that the National Center for Missing and Exploited Children has access to the Interstate Identification Index to be used by the Center only within the scope of its duties and responsibilities under Federal law.

Id.

Defendant's counsel, as an officer of the court, has the duty to provide a complete and adequate defense under the Model Rules of Professional Conduct. Clearly, this can only be accomplished via independent analysis of the alleged contraband.

H.R. 3132, section 133 reads, in part:

(1) IN GENERAL- Except as provided in paragraphs (2)..., the National Center for Missing and Exploited Children, including any and all of its directors, officers, employees, or agents, is not liable in any civil or criminal action for damages directly related to the performance of its CyberTipline responsibilities and functions as defined in this section.

(2) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT- Paragraph (1) does not apply in an action in which a party proves that the National Center for Missing and Exploited Children, or its officer, employee, or agent as the case may be, engaged in intentional misconduct or acted, or failed to act, with actual malice, with reckless disregard to a substantial risk of causing injury without legal justification, or for a purpose of responsibilities or functions under this section.

Id.

Defense attorneys, as officers of the court, should be afforded the same trust and accountability afforded to NCMEC and the prosecuting government with respect to granting access to alleged contraband in order to properly prepare an adequate defense. The Defendant asserts that it is highly illogical to presuppose that an agent of the government would adhere to the law with respect to the continued circulation of alleged contraband more so than defense counsel and their experts. There are overwhelming reports of “government agents or employees” violating the law. For example, an online news agency reported that a Defense Information Systems Agency official was arrested on charges of child pornography ³ (attached hereto as exhibit **F**). Furthermore, the online news agency reported that a Homeland Security Department official was arrested for soliciting sex with a minor. Id. In another news report, a Texas constable was indicted in child porn charges after soliciting sex from a minor in Colorado ⁴ (attached hereto as exhibit **G**). In January, 2006, a New Orleans detective who investigated sex crimes was ordered to serve four years in prison for molestation of a minor ⁵ (attached hereto as exhibit **H**). In September, 2005, a former Austin, Texas detective plead guilty to seven counts of child pornography, admitting that he possessed hundreds of images on his computer of

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Patience Wait, Child Porn Charge Against DOD IPv6 Director Dropped, April 6, 2006,
http://www.gcn.com/online/vol1_no1/40341-1.html

4

Lawman Indicted On Child Porn Charges, August 26, 2005,
<http://www.thedenverchannel.com/news/4900321/detail.html>

5

Meghan Gordon, Detective Who Investigated Sex Crimes Against Juveniles Molested 14-Year-Old Victim, January 24, 2006,
www.unknownnews.org/0601270124stinkybadges.html

depictions of minors engaged in sexual conduct ⁶ (attached hereto as exhibit **I**). Moreover, as officers of the court, should the Defendant's counsel or his expert(s) utilize alleged contraband for improper or illegal purposes as described in 18 U.S.C. § 2252 et seq and H.R. 44772, the Defendant's counsel and/or his expert(s) would be held criminally liable for any alleged violation. See, e.g., United States v. Blair (9th Cir. 2000) 210 F.3d 385 (Court bailiff convicted of possession of child pornography and transporting child pornography). In the instant matter, this Honorable Court denied the Defendant's Motion for Independent Analysis of Physical Evidence as moot because the government agreed to forward the Defendant's counsel and his expert a mirror-image copy of the alleged contraband (see correspondence attached hereto as Exhibit **J**) . Thereafter, however, President George W. Bush signed into law H.R. 4472 on or about July 27, 2006, thus denying the Defendant his fundamental right to independently analyze the alleged contraband in order to prepare an adequate defense. Like the defendant in Cadet, granting the Defendant's counsel and his expert a copy of the alleged contraband in order to prepare a defense under a suitable protective order will not risk causing harm to a child anymore than the government's maintenance and use of said alleged contraband in preparation for its case-in-chief. Therefore, H.R. 4472, section 604 is fundamentally unfair and seriously prejudicial to the Defendant and should be declared unconstitutional.

E. H.R. 4472, SECTION 604 VIOLATES THE DEFENDANT'S

DUE PROCESS RIGHT TO RECEIVE A FAIR TRIAL.

Defense counsel is aware that the Defendant's argument incorporated herein was raised, in part, in the Defendant's Motion for Independent Analysis of Physical Evidence and Protective Order and Defendant's Motion to Dismiss Counts Two (2), Three (3), Four (4), Five (5), Six (6), and Seven (7) Based Upon Unconstitutionality of 18 U.S.C. 2252A(a)(2)(A) and 18 U.S.C. 2252A(a)(5)(B). However, defense counsel feels it is necessary to highlight the issues in this Supplemental Motion for appellate purposes, and in order to preserve the issues raised in said prior motions. The Fifth Amendment to the United States Constitution provides that "No person shall be held to answer for a capital, or otherwise infamous crime...without due process of law..." It is a basic Due Process right and indeed essential to a fair trial in a criminal case that a defendant and his counsel be afforded reasonable opportunity to present a case. The Due Process Clause of the Fourteenth Amendment to the United States Constitution protects a criminal defendant from being convicted where the government fails to preserve materially exculpatory evidence or destroys in bad faith potentially useful material. Arizona v. Youngblood (1988), 488 U.S. 51. To be materially exculpatory, "evidence must both possess an exculpatory value that was apparent before the evidence was destroyed, and be of such a nature that the Defendant would be unable to obtain comparable evidence by other reasonably available means. California v. Trombetta (1984), 467 U.S. 479, 489. In the instant matter, there is a digital crime scene, no different than any other crime scene. If an accused establishes that inspecting, measuring or examining the crime scene is relevant, he is entitled to inspect the premises. Henshaw v. Commonwealth (1994),

19 Va.App.338, 346. Henshaw held that “Due Process rights of Article I, Section 8 of the Virginia Constitution give a criminal defendant a right to view, photograph, and take measurements of the crime scene, provided that the defendant makes a showing that a substantial basis exists for claiming that the proposed inspection and observation will enable the defendant to obtain evidence relevant and material to his defense or be able to meaningfully defend himself.” Id. See Massey v. Commonwealth (1985), 230 Va. 436, 442. In the instant matter, the Defendant’s interest in the evidence is relevant and reasonable. In order for the Defendant to prepare an adequate defense, he must be afforded the opportunity to examine the evidence. In order to preserve the Defendant’s Constitutional right, he must have an opportunity to allow independent experts to examine the digital crime scene in any relevant manner, which include, but is not limited to, investigating the possible tampering and outside intrusions of the computer, properly determining the validity of the evidence, and determining whether the images have been materially altered. Because no alternative means exist for the Defendant to obtain comparable evidence other than via independent analysis of the alleged contraband without exposing the defense counsel’s work product to the government, H.R. 4472 § 604 denies the defendant his Due Process rights under the Fifth Amendment of the United States Constitution to a fair trial and should be declared unconstitutional.

F. **H.R. 4472, SECTION 604 ET. SEQ. PRESUMES THAT MATERIAL WITHIN THE GOVERNMENT’S POSSESSION IS, IN FACT, ACTUAL CONTRABAND IN VIOLATION OF 18 U.S.C. 2252A ET SEQ., WITHOUT AUTHENTICATION, AND IS THEREFORE UNCONSTITUTIONAL.**

H.R. 4472 § 604 presupposes that the alleged contraband is, in fact, actual

contraband without requiring the government to properly authenticate the material as actual child pornography prior to trial and thus, is unconstitutional. The vast advances in technology, specifically in the field of digital imagery ⁷, has recently given the Court cause to revisit its decision in New York v. Ferber (1982), 458 U.S.747 (holding that pornography involving a minor need not first be found obscene to fall outside of the protection of the First Amendment). This is to ensure that the law in the area of child pornography stays as current as available technology. The cause for this was a wide range of computer software titles, which are available to the public for a modest price, which allow their users to alter the appearance of digital images. Even in the hands of a novice, such a program allows the users to manipulate digital images in such a manner that the naked eye is unable to detect any manipulation.

When a particular piece of pornography merely appears to contain a minor but does not, either because the actor/actress is over the age of majority or because the material has been digitally altered referred to above, the material is within the protection of the First Amendment, and it must be found obscene before it can be regulated. Ashcroft v. American Civil Liberties Union (2001) 458 U.S. 747. Thus, in this matter, in order for the Government to maintain an action against the Defendant, it must claim that the evidence at issue contains actual child pornography.

A basic premise of the Federal Rules of Evidence is that all evidence must be

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“A digital image consists of a number of tiny squares called pixels (the term ‘pixel’ is a composite word, made up of the words picture and element). The image file contains information about the content of each pixel, in terms of its brightness and colour (sic). When pictures are stored in digital form, it is relatively easy to modify an image by altering one or more pixels. The digital manipulation of an image can mean changing the colour (sic) or brightness of some or many pixels; thus the image can be made to appear sharper or blurred; elements can apparently be removed or elements can be added or duplicated. The whole image or parts of it, can be combined with other images, to make entirely new, ‘fictional’ images.”

<http://www.ejmd.mcmail.com/digitalimages.htm>.

authentic and genuine. Fed. R. 901 states as follows:

(A) The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

Id. Fed. Evid. R. 901 merely requires authentication as a condition precedent to any evidence being introduced. See id. The evidence at issue in the instant matter consists of numerous still images and movies of alleged minors exposed and/or engaged in sexual activity stored in digital form ⁸. The authentication of evidence prior to its admission into evidence is always of the utmost importance. However, due to the fact that the evidence at issue in the case at bar is in digital form, the authentication of said evidence becomes even more important.

Digital information can be easily distributed from one individual to another. Additionally, digital information can be easily altered through the use of relatively simplistic and readily available software programs, then distributed to others. These altered digital images can then be further altered and distributed to yet another individual, and so on. The fact that digital images can be readily altered and distributed makes it imperative that prior to its future admittance, the image should be authenticated as to what the proponent claims.

Although substantial differences exist between the nature of digital images and traditional film photographs, the method of authentication for photographs must be adhered to just the same. Federal courts have determined that photographs can

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For the purpose of economy, the term “image” is used throughout the instant motion to refer to still images and movies, in either traditional or digital format.

be authenticated under either of two theories; (1) the “pictorial testimony” theory, or (2) the “silent witness” theory. See, e.g. United States v. Rembert (1988), 863 F.2d 1023 (attached hereto as exhibit **J**).

Under the pictorial testimony theory, the photographic evidence becomes admissible when a sponsoring witness can testify that it is a fair and accurate representation of the subject matter based on that witness’ personal observation. See id. This theory of authentication requires a witness to view the photograph on the witness stand and then testify as to the authenticity of the photograph. Such testimony is achieved by the witness acknowledging his/her personal knowledge of the subject.

Here, this method would require the government to produce a witness who has actually seen or knows the alleged minor depicted in the photograph, who can state that he/she knew/saw the alleged minor when he/she was a minor, and who can testify that the photograph is a fair and accurate representation of the alleged minor while he/she was a minor. Upon information and belief, the government has not disclosed any such witnesses to date, and without such a witness, the government cannot authenticate the photograph under the “pictorial testimony” theory.

The remaining theory of authentication under federal law is the “silent witness” theory. Under this theory, the “photographic evidence is a ‘silent witness’ which speaks for itself, and is substantive evidence of what it portrays independent of a sponsoring witness.” Id. However, to authenticate photographic evidence

under this theory, there must first be “a sufficient showing of the reliability of the process or system that produced the evidence.” McCormick, Evidence (3 Ed. Cleary Ed. 1984) 672 § 214. See also Rembert, supra. Authentication under the “silent witness theory” requires a witness with personal knowledge of the process or system which was used in the creation of the photographs at issue. Without a witness who possesses such knowledge, it would be impossible to determine whether or not the process/system is/was reliable.

Thus, the government must produce a witness with first hand knowledge of how the photographs were produced, for example, by digital camera, or by a traditional film camera and then scanned into digital form, etc. That witness must be able to testify to the reliability of the method used. Upon information and belief, the government has not disclosed any witness with such knowledge. Without such a witness to provide the requisite testimony, the government cannot authenticate the evidence at issue under the silent witness theory.

In the instant matter, it is anticipated that the government may argue that the images can be authenticated with testimony by an investigating officer indicating that the images are a fair and accurate representation of the images found on the Defendant’s computer; any such argument is insufficient. As previously stated, Fed. Evid. R. 901 requires evidence “sufficient to support a finding that the matter in question is what its proponent claims.” It has been a long-standing precedent and addressed in dicta that evidence must be authenticated before it can be submitted to the jury. See id. H.R. 4472 § 604 implies that images of alleged child pornography are, in fact, authenticated images of *actual* child pornography. By denying the

Defendant's counsel and his expert witness with copies of the alleged contraband, H.R. 4472 § 604 allows the government to bypass its burden of authenticating the evidence to determine if the alleged child pornography is, in fact, actual child pornography. Without proper authentication, guilt is implicitly imposed on the Defendant who, presumed to be innocent until proven guilty, may in possession of material protected under the First Amendment and thus, which is legal. See Ashcroft v. Free Speech Coalition (2002), 535 U.S. 234. Free Speech Coalition held that virtual images depicting what appear to be minors engaged in sexual conduct are protected under the First Amendment. See id. at 244. Thus, the government bears the burden of authenticating the images found on the Defendant's computer before they can be admitted into evidence at trial. Once the images have been authenticated by the government and admitted into evidence, the ultimate decision is left up to the factfinder. Therefore, because H.R. 4472 § 604 permits the government to bypass its burden to authenticate the evidence, it should be declared unconstitutional.

WHEREFORE, the Defendant, David L. Knellinger, moves this Honorable Court to declare H.R.4472 unconstitutional. The Defendant contends that H.R.4472 is unfair and unduly prejudicial to the preparation of a defense. Additional information will be provided to this Honorable Court at the oral hearing of this matter.