

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARCIN STANISLAW GARBACZ,

Defendant.

CR 20-50022

REDACTED

FACTUAL BASIS STATEMENT

The defendant states that the following facts are true, and the parties agree that they establish a factual basis for the offenses to which the defendant is pleading guilty pursuant to Federal Rule of Criminal Procedure 11(b)(3):

Between March 2004 and March 2007, Marcin Stanislaw Garbacz, a citizen of Poland, was in the United States working as a priest for the Catholic Diocese of Rapid City in South Dakota under a non-immigrant R1 Visa. The R1 Visa allows religious workers to work in the United States for a period of up to 5 years and eventually apply for permanent residence. In 2007, Mr. Garbacz applied for permanent resident status in the United States. On September 10, 2008, Mr. Garbacz became a permanent United States' resident. Mr. Garbacz then became a United States naturalized citizen on July 2, 2014.

In 2011, Mr. Garbacz was assigned to a Catholic parish in Faith, South Dakota. (Name Redacted) was residing in Faith at the time and was involved in the Catholic church. Between June 21, 2011, and July 7, 2011, Mr. Garbacz traveled with (Name Redacted) and two other women from South Dakota to Poland and other countries outside the United States. While traveling, (Name Redacted) was in the sole custody, care, and control of Mr. Garbacz. Mr. Garbacz

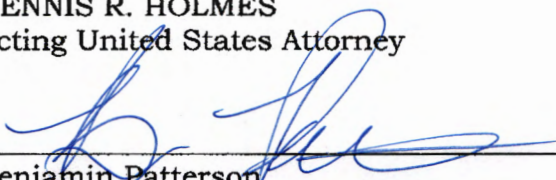
paid for (Name Redacted) airfare and hotel stays. During five nights of the sixteen-day trip, Mr. Garbacz stayed in the same room as (Name Redacted). At the time of the trip, (Name Redacted) was between his junior and senior years of high school and was 17 years old.

On July 6-7, 2011, Mr. Garbacz and (Name Redacted) stayed at a hotel in Krakow, Poland. Mr. Garbacz and (Name Redacted) stayed in the same room at the hotel. While at the hotel, Mr. Garbacz surreptitiously recorded videos of (Name Redacted) while (Name Redacted) was in the shower by himself. The videos were recorded using Mr. Garbacz's personal cell phone. A total of five videos were recorded. During the videos, as (Name Redacted) would turn towards the camera, the camera would be pulled away and the video would end. In the videos, (Name Redacted) is clearly seen unclothed in the shower. (Name Redacted) genitals are clearly visible in three of the videos. Neither while Mr. Garbacz was recording (Name Redacted), nor at any other time thereafter, was (Name Redacted) aware that Mr. Garbacz had recorded him while he was in the shower. The videos constitute production of child pornography.

Either while in Poland or after returning to the United States following the trip, Mr. Garbacz transferred the videos from his cell phone to his computer, placing them in a folder titled "(Name Redacted)," a nickname Mr. Garbacz used for (Name Redacted)

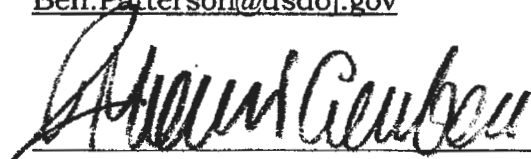
9/20/2021
Date

DENNIS R. HOLMES
Acting United States Attorney



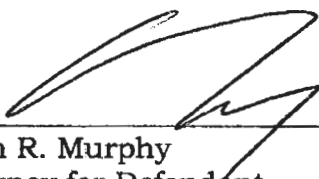
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09/14/2021
Date



Marcin Stanislaw Garbacz
Defendant

9/17/21
Date



John R. Murphy
Attorney for Defendant