

FBI ALLEGEDLY FOUND CHILD SEXUAL ABUSE MATERIAL WHEN IT SEARCHED JOSH SCHULTE'S DISCOVERY LAPTOP

For the past several weeks – since his attorney, Sabrina Shroff, filed a letter on September 28 asking why he hadn't been delivered to the SCIF as expected on September 26 – there has been something weird going on in the docket for Josh Schulte – who in July was convicted of stealing and leaking the CIA's hacking tools to Wikileaks. She noted there was a probable request that he be withheld from the SCIF in the docket and wanted access to it. Today, the government unsealed three filings explaining what happened: They allegedly caught Schulte with Child Sexual Abuse Material again. Almost four years to the day after he was found using contraband phones in MCC, the government did another search of his cell to figure out whether and how he got the CSAM (which probably came from his discovery pertaining to the files allegedly on his home computer in 2017).

The filings are:

- September 23, 2022: Request to keep him out of the SCIF
- September 30, 2022: Request for a delay on sharing the filings until after searches
- October 6, 2022: Update on ongoing investigations into Schulte

What happened is this:

July 27: The government obtained a warrant for

Schulte's discovery laptop covering contempt and contraband with search run by filter AUSA.

As the Court is aware, on July 27, 2022, United States Magistrate Judge Cheryl L. Pollak of the Eastern District of New York signed a warrant authorizing the seizure and search of the laptop previously provided to the defendant for his use in the Bureau of Prisons for reviewing unclassified discovery and preparing litigation materials in this case (the "Laptop Warrant"), which was at that time located at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. Pursuant to the terms of the Laptop Warrant, the initial search and review of the contents of the defendant's laptop for evidence of the subject offenses set forth therein, specifically violations of 18 U.S.C. §§ 401(3) (contempt of court) and 1791(a) (possessing contraband in a correctional facility), is being conducted by agents from the Federal Bureau of Investigation ("FBI") who are not part of the prosecution team, supervised by an Assistant U.S. Attorney who is also not part of the prosecution team and is experienced in privilege matters (the "Wall Team"), to segregate out any potentially privileged documents or data.

August 26: The FBI discovered an extra thumb drive in the SCIF.

On or about August 26, 2022, Schulte was produced to the Courthouse SCIF and, during that visit, asked to view the hard drive containing the Home CSAM Files from the Home Desktop. The hard drive was provided to Schulte and afterwards re-secured in the dedicated safe in the SCIF. The FBI advised the undersigned that, while securing the hard drive containing the Home CSAM

Files, they observed that an unauthorized thumb drive (the "Thumb Drive") was connected to the SCIF laptop used by Schulte and his counsel to review that hard drive containing the Home CSAM Files. On or about September 8, 2022, at the Government's request, the CISO retrieved the hard drive containing materials from the Home Desktop from the SCIF and returned it to the FBI so that it could be handled pursuant to the normal procedures applicable to child sexual abuse materials. The CISO inquired about what should be done with the Thumb Drive, which remained in the dedicated SCIF safe. The Government requested that the Thumb Drive remain secured in the SCIF while the Government completed its review of the defendant's laptop and continued to investigate the defendant's potentially unauthorized activities.

September 22: FBI discovers "a substantial amount" of suspected CSAM on his discovery laptop with review run by a second AUSA.

[O]n September 22, 2022, the Wall Team contacted one of the FBI case agents handling this matter to inform him that, during the Wall Team's review of the defendant's MDC laptop, they had discovered a substantial amount of what appeared to be child sexual abuse materials (the "Laptop CSAM Files") and to request guidance about how to proceed.

[snip]

[A]nother Assistant U.S. Attorney was assigned to the Wall Team at the request of the undersigned to be able to review the material and assist in obtaining that additional warrant, which this Court issued on September 23, 2022 (the "CSAM Expansion Warrant").

October 5: FBI executes a search on Schulte's cell, the SCIF, and electronics in the SCIF.

One warrant, which was issued on October 4, 2022 by United States Magistrate Judge Robert M. Levy of the Eastern District of New York, authorized the search of the defendant's cell at the MDC and the seizure of certain materials contained therein, including electronic devices (the "MDC Cell Warrant"). The second warrant, which was also issued on October 4, 2022 by this Court, authorized the seizure and search of three specified electronic devices previously used by the defendant in the Courthouse Sensitive Compartmented Information Facility ("SCIF") in connection with his review of CSAM obtained from the defendant's home computer equipment and produced in discovery for review in the SCIF (the "CSAM Devices Warrant"). Both the MDC Cell Warrant and the CSAM Devices Warrant contain substantially the same procedures as the CSAM Expansion Warrant for initial review of the seized materials by the Wall Team. Both warrants were executed by the FBI on October 5, 2022.

DOJ is still investigating the discovery laptop for both the contraband and the CSAM. But they're ready to give Schulte a typewriter so he can write his post-trial motions.

As the Government previously informed defense counsel and the Court, the Government cannot at this point consent to providing the defendant with a replacement laptop under any conditions (D.E. 950), in light of both his convictions of a variety of computer-related offenses and the additional evidence of his misconduct with regard to the previous MDC laptop that was seized. The Government has conferred

with legal counsel at the MDC to request that the defendant have access to a typewriter for purposes of drafting these post-trial motions, similar to that available to inmates in general population. MDC legal counsel has indicated that this would likely be possible, subject to approval from the senior management of the MDC.