



West Virginia E-Filing Notice

CC-02-2022-M-2

Judge: Bridget Cohee

To: Joseph Kinser
jkinser@berkeleywv.org

NOTICE OF FILING

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

State of West Virginia v. David Welch

CC-02-2022-M-2

The following complaint was FILED on 4/6/2022 4:00:16 PM

Notice Date: 4/6/2022 4:00:16 PM

Virginia Sine
CLERK OF THE CIRCUIT COURT
Berkeley County
380 W South Street
MARTINSBURG, WV 25401

(304) 264-1918
belinda.parsons@courtswv.gov

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

CASE NUMBER: 22-M-_____

v.

DAVID WELCH,
Defendant.

INFORMATION OF PROSECUTING ATTORNEY

COMES NOW the State of West Virginia, on this the 6th day of April, 2022, by Joseph R. Kinser, Assistant Prosecuting Attorney for Berkeley County, West Virginia, and charges the following against the Defendant, upon knowledge, information and belief:

COUNT ONE
Possession of Child Erotica

That DAVID WELCH on or about the 7th day of October, 2021, in Berkeley County, West Virginia, being age eighteen or over, did unlawfully, knowingly, and intentionally, but not feloniously, possess, in any form, any visual portrayals of minors who are partially clothed, where the visual portrayals are unrelated to the sale of a commercially available legal product and used for purely prurient purposes, in violation of Chapter 61, Article 8C, Section 3a, of the West Virginia State Code, as amended, against the peace and dignity of the State.

Respectfully submitted,

STATE OF WEST VIRGINIA,
BY COUNSEL,

/s/ Joseph R. Kinser

Joseph R. Kinser (WVSB No. 11820)
Assistant Prosecuting Attorney
380 W. South St, Suite 1100
Martinsburg, WV 25401
PH: (304) 264-1971
FX: (304) 263-6092

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

CASE NUMBER: 22-M-_____

v.

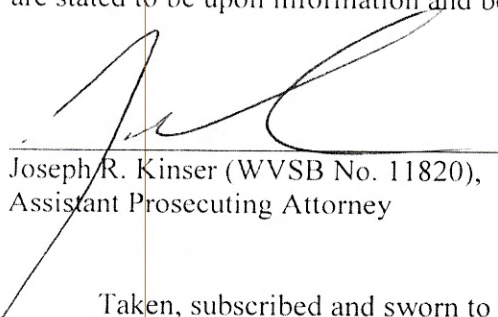
DAVID WELCH,
Defendant.

AFFIDAVIT

STATE OF WEST VIRGINIA;
COUNTY OF BERKELEY, to-wit:

Comes now the undersigned who deposes and states, either upon personal knowledge or upon information and belief:

I, Joseph R. Kinser, Assistant Prosecuting Attorney for Berkeley County, West Virginia, hereby states that the facts and allegations contained in the foregoing information are true and correct, except insofar as they are stated to be upon information and belief, and, insofar as they are stated to be upon information and belief, I believe them to be true.

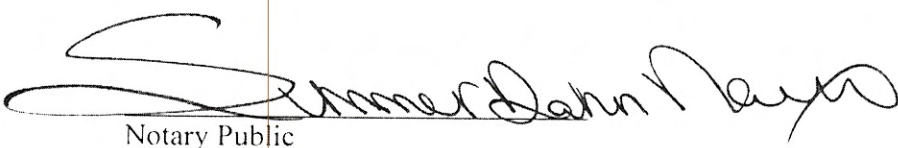

Joseph R. Kinser (WVSB No. 11820),
Assistant Prosecuting Attorney

Taken, subscribed and sworn to before me this day of April 6, 2022

My Commission Expires:

Oct. 15, 2025




Notary Public

FILED | 4/6/2022 4:00 PM
CC-02-2022-M-2
Berkeley County Circuit Clerk
Virginia Sime

ie Wilkes Delligatti
secuting Attorney

Berkeley County

380 West South Street, Suite 1100
Martinsburg, WV 25401

Phone (304) 264-1971
Fax (304) 263-6092



Office of the Prosecuting Attorney

January 5, 2022

Andrew Arnold, Esq.
208 N. George St.
Charles Town, WV 25414

RE: *State of West Virginia v. David Welch*

Mr. Arnold:

The State extends the following pre-charge plea offer to resolve the issues that we have discussed. Please advise if your client wishes to accept this offer prior to the close of business on January 14, 2022.


1. The Defendant shall plead guilty by Information to one count of Possession of Child Erotica, in violation of W.Va. Code § 61-8C-3a.
2. In exchange, the State will not pursue additional charges regarding the material that was seized from the Defendant's electronic devices.
3. Possession of Child Erotica is a misdemeanor offense and is punishable by up to one year in jail and/or a fine of up to \$1,000.
4. The State agrees to recommend that the Defendant be sentenced to one year in jail, suspended for a term of supervised probation, so long as the Defendant completes a psycho-sexual evaluation required under W.Va. Code 62-12-2(e).
5. The Defendant shall not be permitted to request a Deferred Adjudication under W.Va. Code 61-11-22a.
6. This plea does not require a term of supervised release, pursuant to W.Va. Code § 62-12-26.
7. A conviction for Possession of Child Erotica does require Sex Offender Registration for life, pursuant to W.Va. Code § 15-12-2(b)(3) and § 15-12-4(a)(2).
8. Should this plea be vacated, set aside, or overturned by any State or Federal Court, the parties will be returned to their original positions and the State will be free to proceed on the original charges. Further, should either the State or the defendant violate or fail to fully comply with any provision of this agreement, this plea, conviction, and sentence shall be

vacated and set aside by the Court upon the motion of the offended party, and the parties will be returned to their original positions before entry of the plea, and any charges dismissed or reduced as a result of this plea will be reinstated.

9. This shall constitute the entire agreement of the parties.

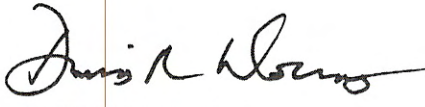
Please advise if your client is willing to accept this offer. If your client is interested in accepting, kindly consider this correspondence a written plea agreement to be filed with the Court, and sign below at the appropriate place and have your client do the same.

Best Regards,




Joseph Kinser
Assistant Prosecuting Attorney
Berkeley County, West Virginia

After having consulted with my attorney, I fully understand the terms of the agreement, and I hereby (initial) [DW] accept or [] decline this agreement as proposed by the State.



David Welch

2/9/22
Date



Counsel for Defendant

2/9/22
Date