

Hawaii State Bar Association
Young Lawyers Division
Presents
The Hawaii High School
Mock Trial Competition

**2021 Mock Trial
Criminal Case¹**

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Prosecution,

vs.

KAI CARPENTER,

Defendant.

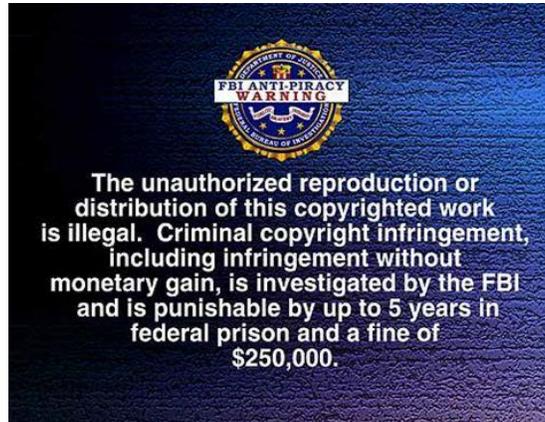
Case No. 2019-CS-12-02020

NOTE: All characters, names, events, places, and circumstances
in this Mock Trial case are fictitious.

**Each witness can be portrayed by a student of any gender. Instances
where a witness is referred to as only “him” or “her” or only “he” or “she”
are inadvertent.**

¹ With much appreciation to Virginia Law Related Education Institute for permission to adapt their problem and much thanks to the author of this problem Nathan Green, Commonwealth’s Attorney, County of James City.

Statement of the Case



Anyone who has watched a video or DVD has read this warning. But have you ever wondered what happens when someone is accused of video piracy? Kai Carpenter is about to find out! Snagged in an internet sweep by Hawaii law enforcement working with the federal government, Carpenter is charged with multiple counts of copyright infringement. Carpenter says that the government should win an Academy Award for best fictional screenplay and he is innocent! In a plot twist, Carpenter believes that his roommates are the actual purveyors of this dastardly crime!

Please adhere to these specific instructions in addition to the State of Hawaii Mock Trial Rules,

1. Sam Pascua may not take the blame for downloading the illegal files. Any attempt to do so will be deemed a major violation of the rules.
2. The trial judge shall not read the jury charge, and it is stipulated that all jurors are familiar with its contents. It is also stipulated that the jury charge is appropriate for criminal cases in the District of Hawaii.
3. All exhibits included in these case materials are authentic and are accurate in all respects; no objections to the authenticity of the exhibits will be entertained. Also, the signatures on the statements and other documents are authentic. No objections will be entertained on a basis of lack of authenticity or lack of a signature.
4. The defendant stipulates that the videos that are the subject of this prosecution, as well as the additional image found outside of the Mars Shared folder, meet the definition of copyrighted material. Based on this stipulation, the government agrees that copyrighted material will not be submitted at trial, and no evidence of the copyright holder will be presented or necessary.
5. The two forensic witnesses are qualified experts in their given fields and are allowed to testify as experts. This stipulation does not preclude teams from going through the

foundation questions to qualify their experts, and in fact it is recommended. The Court will entertain an objection to the offer of the witness as an expert, however regardless of the evidence produced; the witness will be qualified as an expert and allowed to testify as such.

6. In a previous hearing, the District Court denied the government's request to join the indictment for the possession of a video without the permission of the copyright holder, with the 10 indictments for distribution of copyrighted works that are the subject of this prosecution. However, the Trial Court reserved ruling on whether or not evidence found in the 11th video would be admissible in this prosecution.
7. In a second hearing, the District Court heard argument on a motion to suppress the Defendant's statement to Inv. Arden Roth. In an unusual decision, the court decided to reserve its ruling on the admissibility of the Defendant's statement until trial. The government concedes that the Defendant properly preserved its objection on this issue and agrees to waive any requirement that the motion to suppress be heard prior to trial.
8. At trial, the parties agree that the Defendant has the right to challenge the testimony of government witness Arden Roth regarding statements made by the Defendant, and will be allowed to voir dire Arden Roth on that issue prior to the court making a decision on the admissibility of the Defendant's statement. The time spent during the Defense's voir dire counts against the team's cross examination time allotment.
9. The Defendant has waived his right to testify at trial. Teams are encouraged to make clear to the court that the defendant waived his right willingly and voluntarily.
10. The captured photograph from Image found in the Videos File, is a photo of the Defendant, Kai Carpenter. All witnesses may testify that the photo is of Kai Carpenter.
11. The video file "*Winnie the Pooh*" was downloaded legally and was located in the Mars Shared Folder.
12. The exhibit labelled "Sample Screen Grab of Mars Software" is an exhibit that was prepared by Lt. Kamele Bryant to illustrate what the Mars Software looks like to the average user. Both parties have waived all objections to the exhibit provided that the judge gives a limiting instruction to the jury that the screen grab is merely an example of the software and **is not** a screen grab taken from the Defendant's computer.
13. Witness Dana Fujikawa was convicted as a juvenile of the misdemeanor offense of Destruction of Property.
14. The Defendant has a previous adult conviction for Grand Larceny, from 2019.
15. These agreed upon stipulations may be provided to the Court by either party at any time during the proceedings, however they shall not be read into the record.

16. All witnesses listed below must be called by the parties in their case in chief. The order in which these witnesses are called is up to the parties.

The government's witnesses

Investigator Arden Roth

Lt. Kamele Bryant

Dana Fujikawa

The defense's witnesses

Fallon Watanabe

Sam Pascua

Kapua Souza

All characters, institutions, events and other facts contained herein are fictitious and not intended to represent any individual, living or dead. The facts presented in this case were created for the purpose of this mock trial problem.

Case Summary

(This summary is not admissible in court and may not be used to impeach a witness)

1 As technology allows private citizens to stream movies, television shows, and other
2 media almost at the same instant that the materials become available, production companies have
3 lobbied Congress and the Justice Department to crack down on the unlicensed distribution of
4 copyrighted materials. Industry demands have led to strong laws and harsher punishments for
5 those who not only distribute copyrighted materials, but also for those in possession of materials
6 obtained in violation of copyright laws. Despite the heightened attention from lawmakers and
7 law enforcement, “bootleggers” continue to thwart copyright laws and circumvent the film
8 industry’s ability to profit from the controlled release of the movies they make by placing
9 counterfeit copies of movies currently in the theaters onto the internet.

10
11 For years the Justice Department and the FBI have been limited in resources needed to
12 pursue these bootleggers, and illegal downloading was widespread as bootleggers acted for the
13 most part without consequence. However, in 2019, the federal government teamed with local
14 law enforcement to develop a network of internet task forces. State law enforcement agencies
15 are on the lookout for violations of state law, but they also work with the federal task force,
16 which uses state resources to combat illegal digital bootlegging when such illegal activity is
17 uncovered by the state.

18
19 For the most part, bootleggers risk being discovered by law enforcement not for the
20 financial gain, but more for the purpose of gaining notoriety as new “age digital pirates.” Many
21 bootleggers will include a signature, or image of themselves with the counterfeit movie they
22 share on the internet. However, this practice decreased with the number of bootleggers that have
23 been identified and imprisoned, predominantly on the evidence of these “*selfie signatures*”
24 included with the videos they post without the copyright holder’s permission.

25
26 On October 7, 2019, Honolulu Police Department Lieutenant Kamele Bryant, who serves
27 as the District Coordinator of the Honolulu Internet Crimes Task Force, conducted an undercover
28 operation investigating the Mars peer to peer network for potential distribution of illegal
29 materials, including copyrighted materials. Lieutenant Bryant, knowing that the Mars peer to
30 peer network is at times used for the sharing of copyrighted materials, routinely checks the
31 undercover software “Orbiting Mars” to see if any new targets have been identified for
32 investigation.

33
34 On October 7, 2019, an IP address geo-located to the Hawaii Kai area was identified as
35 advertising or sharing materials infringing on copyright. Lt. Bryant made contact with the
36 District 7 investigator responsible for working with the IC task force, Investigator Arden Roth.
37 Inv. Roth identified the internet user at that address and procured a search warrant for the
38 residence at 2000 Keahole Street in Hawaii Kai, Honolulu, Hawaii.

39
40 On October 30th, 2019, the search warrant for the residence was served. Dana Fujikawa
41 was identified as one of the residents at the suspect address. Two laptop computers were seized.
42 Fujikawa claimed ownership of one of the laptops and identified the other laptop as belonging to
43 a roommate, Kai Carpenter, the defendant in this case.

1 A forensic examination of the laptop identified as Carpenter’s revealed videos that were
2 confirmed to be in violation of copyright laws. The images were found in two distinct files
3 within the computer. In one location, 10 videos that infringed on copyright laws were found. In
4 a separate file, an eleventh video in violation of copyright law was discovered, this video
5 contains images of Carpenter engaged in conduct consistent with the selfie signature known to be
6 popular with bootleggers.
7

8 Following the seizure of Carpenter’s laptop and the discovery of the files that infringed
9 on copyright law, Inv. Roth spoke with Carpenter. On November 2nd, 2019, after being advised
10 of his Miranda rights, Carpenter agreed to speak, but denied knowing about any videos on his
11 computer that violated copyright law. However, when shown a still image captured from what
12 the Investigator believed to be a selfie signature, Carpenter identified himself and terminated the
13 interview.
14

15 Also during the interview with Inv. Roth, Carpenter surmised that if illegal videos were
16 found on his computer, it must have been placed there by one of the many roommates that he has
17 had over the years, because he had no idea that it was there and they all had access to his
18 computer.
19

20 The defendant was subsequently indicted for 10 counts of infringing on a copyright under
21 Section 506(a)(1)(d) of title 17 of the U.S. Code. Additionally, the Defendant has been indicted
22 for 1 count of infringing on a copyright under Section 506(a)(1)(c) of title 17 of the U.S. Code.
23 The 1 count of infringing on a copyright under Section 506(a)(1)(c) of title 17 of the U.S. Code
24 is being handled in a separate proceeding.
25

Relevant U.S. Code Sections

(Teams may only use the code sections as set forth herein)

17 U.S. Code § 506

Criminal Infringement Penalty

(a) Criminal Infringement.—

(1) **In general.**—Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18, if the infringement was committed—

- (A) for purposes of commercial advantage or private financial gain;
- (B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$1,000;
- (C) by the knowing possession of a work being prepared for commercial distribution, on a computer network if such person knew or should have known that the work was intended for commercial distribution; or
- (D) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

(2) **Definition**—In this subsection, the term “work being prepared for commercial distribution” means--

- (A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if, at the time of unauthorized distribution--
 - (i) the copyright owner has a reasonable expectation of commercial distribution; and
 - (ii) the copies or phonorecords of the work have not been commercially distributed; or
- (B) a motion picture, if, at the time of unauthorized distribution, the motion picture--
 - (i) has been made available for viewing in a motion picture exhibition facility; and
 - (ii) has not been made available in copies for sale to the general public in the United States in a format intended to permit viewing outside a motion picture exhibition facility.

CITY AND COUNTY OF HONOLULU POLICE INCIDENT REPORT

Incident Date: 10/30/19

Incident Time: 6:30 p.m.

Incident Location:

2000 Keahole Street
Honolulu, Hawaii

Case No. 2019-CS-12-02020

1 On October 30th, 2019, at approximately 6:30 p.m. this investigator responded to 2000
2 Keahole Street, a single family home in Hawaii Kai, to execute a federal search warrant on the
3 residence pursuant to the joint task force on copyright infringement. The search warrant authorized
4 law enforcement to search for and seize any electronic devices that may potentially contain images
5 in violation of copyright law. The search warrant was based on information from Lt. Kamele
6 Bryant that the IP address registered at this address was identified as sharing videos in violation
7 of copyright on the Mars file sharing network.

8 Upon arrival, I spoke with Dana Fujikawa, the owner of the home and registered user of
9 the suspect IP address. Fujikawa appeared surprised to see law enforcement at the door and was
10 even more shocked when informed of the reason for the search warrant. Fujikawa was cooperative
11 in leading law enforcement through the home. In the presence of Fujikawa, two laptop computers
12 were located. The first, a Dell laptop, labeled Item 1 for identification, was located in the family
13 room on what appeared to be a coffee table. When found, Item 1 was powered down. Item 1 was
14 collected for further examination. Fujikawa immediately identified Item 1 as Fujikawa's personal
15 laptop and acknowledged that Fujikawa alone uses that laptop and alone has the password that
16 unlocks the computer's home screen.

17 Further examination of the home revealed a second laptop computer in what Fujikawa
18 identified as the bedroom belonging to Fujikawa's roommate, Kai Carpenter. At the time of the
19 search, Carpenter was not home; Fujikawa informed this Inv. that Carpenter was at a local internet
20 café. The second computer, an Acer laptop, was found powered on and with the home screen
21 open. This laptop was powered down by this Investigator and collected for further examination.
22 This laptop was labeled Item 2 for identification.

23 As I was collecting Item 2, Fujikawa became agitated and emotional. Fujikawa profusely

1 claimed that Item 2 was Carpenter's computer and stated that they never used that computer in the
2 entire time Carpenter lived in the home.

3 After confirming that the home contained no additional suspect devices, I departed the
4 scene and delivered Items 1 and 2 to Lt. Bryant for forensic examination. Approximately two days
5 later I received word from Lt. Bryant that Item 2 was found to have downloaded the Mars file
6 sharing program.

7 I was also told that Item 1 was cleared of possessing any forms of material that violated
8 copyright law. Additionally, I was informed that Item 1 was not equipped with the Mars file
9 sharing program.

10 Lt. Bryant also informed me that in addition to the unlawful videos found in the Mars
11 shared file, an additional video in violation of copyright law was found in a videos folder, separate
12 from the Mars files. Lt. Bryant informed me that this video contained a selfie signature that
13 appeared to be consistent with Fujikawa's roommate, Kai Carpenter. Lt. Bryant provided me with
14 a still capture from the video in question and tasked me with attempting to confirm that the
15 individual was in fact Carpenter.

16 To further the investigation of the copyrighted material found on Item 2, I returned to 2000
17 Keahole Street to interview Kai Carpenter. Prior to my arrival at the residence, I reviewed my
18 phone messages and found that Fujikawa had called sometime on Nov. 1st to amend something
19 that had been said. In the message, Fujikawa stated that thinking about the situation more;
20 Fujikawa now remembered multiple times over the past few months that Carpenter had used
21 Fujikawa's laptop. Fujikawa continued to deny that Fujikawa ever used Item 2.

22 Carpenter was found at home and claimed to be unaware of what I wanted to talk to him
23 about. Based on the information I had been provided by Lt. Bryant, I took Carpenter into custody
24 and transported him to the police station for questioning. I utilized my digital recording device to
25 capture verbatim what was discussed between Carpenter and me. I advised Carpenter of his
26 Miranda warnings and while he initially made mention of an attorney, I believed he still wanted to
27 talk to me so I attempted to confirm his intentions with additional questions. Carpenter
28 acknowledged that he had downloaded videos, but was quick to identify it as legally obtained, and
29 denied ever downloading, sharing, or possessing any counterfeit or illegal movies. He did identify
30 a number of roommates that he had over the years and when they would have had access to his
31 computer.

32 I then showed Carpenter the photo I had received from Lt. Bryant. At that point Carpenter

1 turned white as a sheet and I thought he was going to vomit. He stated he did not want to say
2 anything else until he could speak with an attorney. I knew that image of Carpenter could be the
3 key to the prosecution so I pushed again and asked Carpenter to help me identify what he was
4 doing in the picture. Carpenter seemed to break, and began to cry. He admitted that that was him
5 in the photo.

6 Having obtained the information I needed, I ended the interview and took Carpenter to the
7 local jail.

8 Based on Carpenter's claim that roommates could have placed the illegal videos on his
9 computer, I tried to run down as many of his roommates as I could. The only individual I could
10 make contact with was Sam Pascua. Pascua identified that they lived with Carpenter for a few
11 months in 2015. Pascua also identified another roommate, Mark Morita who lived with Carpenter
12 from August 2015 until January 23, 2018. Pascua was oddly specific about the date Morita moved
13 out. Carpenter had identified that he moved in with Ozzie Segawa in August of 2018. Because
14 many of the videos were shown to be downloaded between January 2018 and August 2018, when
15 Carpenter was living alone, I terminated efforts to locate and interview any additional roommates.

16 Of the available exhibits, I am familiar with the photographs I took of Items 1 and 2,
17 Carpenter's "Selfie Signature," the screen grab of Mars Software prepared by Lt. Bryant, the
18 Interview with Kai Carpenter (which I verify is accurate), and the Forensic Report File Data
19 prepared by Lt. Bryant.

Report Prepared and Sworn to by

Investigator Arden Roth
Honolulu Investigations

Item 1



Item 2



Still picture taken from counterfeit Maleficent Video



Sample Screen Grab of Mars Software



Interview with Kai Carpenter

1 Roth: Kai, I am an Investigator with Honolulu Police Department. Our
2 conversation is being recorded right now, and I understand that you had an
3 idea that I would be coming by to talk with you.
4

5 Kai: Um, no, I had no idea.
6

7 Roth: Ok, I think Dana Fujikawa had told you we were doing the search warrant
8 at the house.
9

10 Kai: No, Fujikawa did not mention anything.
11

12 Roth: Ok, and we just need to uh we had a chance to talk with her um we need to
13 see if we can have a little conversation with you to try to sort everything
14 out, ok, um you have a problem with that?
15

16 Kai: Um, I think I probably would need to see a lawyer.
17

18 Roth: Ok, that is certainly your right, and if you want to have a lawyer we will
19 stop right now and let you get an attorney.
20

21 Kai: Ok.
22

23 Roth: But if you want to talk to us and try and sort it out I'm going to advise you
24 of your rights and you can decide what you want to do.
25

26 Kai: Ok.
27

28 Roth: Ok, so are you alright with that?
29

30 Kai: I am fine with it.
31

32 Roth: Ok, if you know that is what your rights are and you understand what your
33 rights are and you can invoke them at any time, ok.
34

35 Kai: Ok.
36

37 Roth: Alright, so you said you might want to have a lawyer but you were fine
38 with talking with me, right?
39

40 Kai: Yup.
41

42 Roth: Ok, I am going to go ahead and read you your rights. You have the right
43 to remain silent, anything you say can and will be held against you in
44 court of law. You have the right to talk to a lawyer and have him present
45 with you while you are being questioned. If cannot afford to hire one, one

1 will be appointed to represent you before any questions if you wish. Do
2 you understand your rights?
3
4 Kai: Yes.
5
6 Roth: Ok, you don't have a problem talking to me?
7
8 Kai: Not at the moment.
9
10 Roth: Do you want to wait and have a lawyer present?
11
12 Kai: No, I'm fine for right now, but if I want to stop we will right?
13
14 Roth: Absolutely, if at any time you don't want to talk to us anymore you just let
15 me know and we will stop the conversation, ok so um ...
16
17 Roth: Ok, we found two computers at the house you share with Dana Fujikawa.
18 Fujikawa told us the Acer computer is yours. Is that correct?
19
20 Kai: Yes.
21
22 Roth: Ok, now do you know why we were there or why we went there to take
23 these computers?
24
25 Kai: I have no clue.
26
27 Roth: Ok, have you ever downloaded Mars?
28
29 Kai: I'm not sure.
30
31 Roth: A lot of people use that to download music and movies and stuff like that.
32
33 Kai: Ok.
34
35 Roth: Are you familiar with it?
36
37 Kai: Um, is that like a shareware?
38
39 Roth: Yeah.
40
41 Kai: I download files, but I don't think I use Mars.
42
43 Roth: Have you ever used Mars to download movies?
44
45 Kai: Not – I mean like normal movies, nothing illegal.
46
47 Roth: Any type of movies?

1
2 Kai: Yes, I have downloaded movies, and maybe I used Mars, if you say
3 so, but that is all. I know all the movies I downloaded I put into one
4 file on the computer.
5
6 Roth: When is the last time you downloaded a movie?
7
8 Kai: Last month my roommate and I wanted to watch the new “*Winnie the Pooh*”
9 movie so we downloaded it, but I’m pretty sure it was legal.
10
11 Roth: Could someone else have downloaded illegal movies onto your computer?
12
13 Kai: Probably. I had roommates in the past that have used it. My computer I
14 mean. Every roommate I have had has had access to my computer when I
15 have not been around. They all had my password and would all download
16 stuff to my computer.
17
18 Roth: What roommates have you had that had access to your computer?
19
20 Kai: Well in 2013, I lived with a guy, Lou Brock. Then in 2015, I lived with
21 Sam Pascua for six or seven months. After Pascua I lived with Mark Morita
22 for a while until 2018. He moved out and soon after that I moved in with
23 Ozzie Segawa in August 2018. I was living with Ozzie up to the time I
24 moved to Hawaii Kai to live with Fujikawa. There has never been a time
25 that someone else did not have access to my computer.
26
27 Roth: You moved in with Fujikawa in February of 2019?
28
29 Kai: I think so, yeah, February 2019.
30
31 Kai: I mean when I lived on the mainland my ex-roommates used my computer
32 all the time.
33
34 Roth: Ok, but no one has used it since you moved in with Fujikawa.
35
36 Kai: Yeah, as far as I know, no. Except Fujikawa. Fujikawa uses it all the time,
37 but I trust them.
38
39 Roth: So, how did the illegal downloads get on the computer in 2019?
40
41 Kai: I am not sure how they got there.
42
43 Roth: Let me have you take a look at this picture . . . Do you recognize who is in
44 this picture?
45
46 Kai : So I think I probably need to uh talk to a lawyer because I don’t want to
47 say anything wrong?

1
2 Roth: Yea, you are not looking so good. This is you in this picture isn't it?
3
4 Kai: I'm not going to answer any more questions, I definitely want a lawyer.
5
6 Roth: Ok, but I really need to know who this is, is it you?
7
8 Kai: Yes it is me.
9
10 Roth: What are you doing in this photo?
11
12 Kai: I was getting ready to bootleg a movie.
13
14 Roth: How did this video get on your computer?
15
16 Kai: I put it on there, but I did not put it into Mars, I kept it separate from the
17 other movies I downloaded.
18
19 Roth: Ok, you have asked for an attorney so I am going to terminate this
20 interview now.

SUPPLEMENT TO ORIGINAL REPORT

1 On March 6th, 2020, this Investigator received a phone call from Dana Fujikawa. Fujikawa
2 wished to provide new information about usage of the Defendant's computer. Fujikawa stated that
3 at some time in the Summer of 2019, Fujikawa's computer was inoperable and in order to upload
4 student grades into the Queen Elementary Grade Book, Fujikawa used Carpenter's computer.
5 Fujikawa added that at all times during the use of the computer Carpenter was present and
6 Carpenter had to enter the password in order for Fujikawa to have access to the computer.

Report Prepared and Sworn to by

Investigator Arden Roth
HPD Investigations

INTERNET CRIMES

REPORT OF FORENSIC EXAMINATION

1 On November 1, 2019, a forensic examination of electronic devices suspected of containing
2 images in violation of copyright law was performed by Lt. Kamele Bryant, Honolulu Police Department.
3 Kamele Bryant holds a degree as a computer forensics investigator from John Jay College of Criminal
4 Justice of the City of New York and had been in his/her position for the past five years. Kamele Bryant is
5 the author of “Forensic sleuthing in the age of bootlegging” published in the October 2016 edition of the
6 magazine “Computer Forensics Today.”
7

8 A copy of this report was provided to Counsel for the Defendant on January 4, 2020 .
9

10 HISTORY:

- 11
- 12 1. On October 7, 2019, this examiner was conducting routine review of the Mars peer to peer
13 network for, among other things, possible distribution of material infringing on known copyrights
14 pursuant to a federal taskforce. Mars is a network software that is available to the public for
15 download. Once installed on a computer, Mars allows people to share computer files with any
16 other individual who has also installed Mars onto their computer. If one Mars user has a
17 particular media file, a song or a movie, that media file may be shared with any other user so long
18 as the user that owns the file has within the Mars program designated the file for sharing. If
19 designated, the software places the file into the “Mars Shared” folder. Any other Mars users can
20 then use keyword searches to see if a file they are looking for is being actively shared by another
21 Mars user. This allows Mars users to download files from one another. The network is called a
22 peer to peer network because the files themselves are not kept on any central server, but rather the
23 files are on the computers of millions of people using the network and sharing with one another.

24 The Mars peer to peer network is predominately used for the lawful sharing of music,
25 movies, photos, and other videos. However, because of the lack of a central server and an
26 absence of oversight as to what is being shared within the Mars community, bootleggers have
27 increasingly sought to use Mars as a means to distribute movies in violation of a production
28 company’s acknowledged copyright.

29 To combat this activity, I utilize a tool called “Orbiting Mars”, essentially a modified
30 version of the readily available Mars peer to peer, file-sharing client that allows law enforcement
31 to do the following:

- 32 A. Complete single source downloads as opposed to multi-source downloads. This
33 allows law enforcement to be confident it obtained the entire file from the
34 suspect IP address;

1 B. Readily see the IP address of the download source and the SHA-1 values of
2 downloaded files (data that the commonly available Mars users collect but do not
3 visibly display. A SHA-1 value is the equivalent of a digital fingerprint. Every
4 file has a corresponding SHA-1 value and while a user may alter the title or name
5 of a file, the SHA-1 value will always remain constant. Law enforcement
6 officers throughout the world have worked together to create a database of
7 known copyright infringement files and their corresponding SHA-1 values.
8 Knowing which SHA-1 values correspond to copyright infringement, I am able
9 to use the Orbiting Mars tool to search for those known SHA-1 values to see if
10 any Mars user is sharing copyrighted material.

11 C. Block other file-sharing client users from browsing and/or downloading law
12 enforcement files.

13 2. On October 7, 2019, this examiner successfully downloaded one file known by law enforcement
14 by its SHA-1 value to be in violation of copyright law using a single source direct connect to a
15 computer using a specific IP address. An IP address is an internet protocol address. It is the
16 equivalent of a digital address for the specific location where an internet signal is being used.
17 This examiner reviewed the downloaded file and observed and confirmed that the downloaded
18 file contained an illegal video file. I determined that the IP address was registered to Cox
19 Communications, and the return on a subsequently issued administrative subpoena revealed that
20 subscriber information associated with that IP address on October 7, 2019 included the name
21 “Dana Fujikawa” at 2000 Keahole Street, Honolulu, Hawaii 96825.

22 3. On October 22, 2019, this examiner again conducted an undercover law enforcement operation
23 investigating the peer to peer distribution of files infringing on known copyrights, using the same
24 “Orbiting Mars” tool. On that date, I successfully downloaded nine additional files known by law
25 enforcement to be illegal. These files were directly downloaded from a single source, one
26 computer assigned a particular IP address. I reviewed the downloaded files and observed and
27 confirmed that they contained videos in violation of copyright laws. I determined that the IP
28 address was the same as the IP address previously identified as belonging to Dana Fujikawa.

29 4. On October 26, 2019, this examiner provided the gathered information to Inv. Arden Roth of the
30 Honolulu Police Department.

31
32 Examination of Suspect Devices

33
34 1. On November 1, 2019, this examiner was provided two laptop computers, labeled Items 1 and 2,
35 from Inv. Arden Roth.

- 1 2. A forensic examination of Item 1 revealed no suspicious activity and no images in violation of
2 copyright law. Additionally, the Mars software was not installed on Item 1.
- 3 3. Item 1 was returned by this examiner to Dana Fujikawa on January 23, 2020.
- 4 4. A forensic examination of Item 2 revealed the presence of files infringing on known copyrights in
5 two distinct folders.
- 6 5. Item 2 was identified as an Acer laptop. The premise of doing any forensic examination is you
7 don't want to do anything to upset or alter the original evidence. Anytime you turn on a
8 computer, it is already making changes to the hard drive. To safeguard against altering the
9 evidence from its original state, I remove the hard drive from the computer and connect it to a
10 write-blocking device, which allows the data on the hard drive to be copied but protects against
11 anything being done to the original hard drive. This is called an acquisition of the hard drive.

12 I then use forensic software to make a bit by bit copy of the acquired hard drive. Based
13 on the size of the hard drive, this may take several hours. As the copy is being made, the forensic
14 software allows me to preview files as they are copied.

15 During my early preview of the computer, I was able to identify that Mars had been
16 downloaded and installed on Item 2. A further preview of the Mars files revealed that the 10
17 videos I had previously downloaded in September and October were still present within the
18 "Mars Shared Folder". All 10 of the videos in the Mars Shared Folder were images of known
19 copyright infringement, meaning the individuals who originally produced the counterfeit video
20 had already been identified. The dates and locations where the videos were originally created
21 vary, but all 10 involve bootleggers that were identified by law enforcement through the presence
22 of a selfie signature.

23 A selfie signature is a way for the bootlegger responsible for counterfeiting the video,
24 usually through the use of a digital recorder being introduced and used while the original film is
25 playing in a theatre, to take credit for their work. These bootleggers are an arrogant group and for
26 some reason think we in law enforcement are too simple to ever actually run them down. But
27 when a bootlegger shows himself with the recording device, they make it all too easy for us.

28 The "created date" associated with a file references the date that the original file was
29 created. The "accessed date" references the date that a copy of the original file was downloaded
30 to the source file, or the computer that is being examined.

31 Additionally, while previewing other videos found in the "videos folder" I discovered
32 what appeared to be an additional illegal video. This copyright infringed video appeared to
33 contain a selfie signature of an individual consistent with Fujikawa's roommate, Kai Carpenter. I
34 performed a still-screen capture during the suspected selfie signature and provided the still photo
35 to Inv. Roth for further investigation.

1 6. Upon completion of the forensic review the following information is being provided:

- 2 A. The computer is password protected. A live boot of the copied hard drive reveals
3 that the home screen and any subsequent use of the computer may only be
4 accessed by use of a password.
- 5 B. Utilization of the forensic software allowed this examiner to identify the
6 password as “loseraiderslose”.
- 7 C. Mars Peer to Peer Software was installed on the computer on January 22, 2010
8 . There is no shortcut icon on the desktop, but the program is easily accessible
9 through the main menu.
- 10 D. There are 35 videos that have been downloaded. All 35 videos are located in the
11 Mars Shared Folder.
- 12 E. There are 11 videos or files that are in violation of copyright laws. 10 of the
13 illegal files are located in the Mars Shared Folder. 1 file containing a video in
14 violation of copyright law is located in the Videos Folder.
- 15 F. A detailed account of each suspect file is attached as part of this report.

Sworn and Subscribed

Lt. Kamele Bryant

Forensic Report File Data

1	Name	Monsters University
2	Path	Item 1.E01/Partition 2/TI105322W0F
3		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
4		Shared Folder/Monsters.jpg
5	File Type	JPEG
6	SHA1 Value	cc1d3f0b3d8c9cb29ec53c1c03cf
7	Created Date	1/9/2013
8	Accessed Date	1/11/2013
9		
10	Name	Into the Woods
11	Path	Item 1.E01/Partition 2/TI105322W0F
12		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
13		Shared Folder/Intothewoods.mpg
14	File Type	MPEG 1.0 Video
15	SHA1 Hash	b7e6b885a2b86ba4146c15f14d44417
16	Created Date	6/30/2014
17	Accessed Date	7/2/2014
18		
19	Name	Inside Out
20	Path	Item 1.E01/Partition 2/TI105322W0F
21		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
22		Shared Folder/Insideout.divx
23	File Type	Riff Avi
24	SHA1 Hash	ceb0e67dbda8ea7336025494d23
25	Created Date	7/6/2015
26	Accessed Date	8/5/2015
27		
28	Name	Coco
29	Path	Item 1.E01/Partition 2/TI105322W0F
30		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
31		Shared Folder/(pthc)coco.avi
32	File Type	Riff Avi
33	SHA1 Hash	edc82b586df47138e270fac
34	Created Date	7/25/2017
35	Accessed Date	9/16/2017
36		
37	Name	Mowgli
38	Path	Item 1.E01/Partition 2/TI105322W0F
39		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
40		Shared Folder/mowgli.mpg
41	File Type	MPEG 2.0 Video
42	SHA1 Hash	6c1b9603e06504908e25de4c04baca5
43	Created Date	4/1/2018
44	Accessed Date	4/26/2018
45		
46	Name	Mary Poppins Returns
47	Path	Item 1.E01/Partition 2/TI105322W0F
48		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My

1		Shared Folder/marymarypoppins.mpg
2	File Type	MPEG 2.0 Video
3	SHA1 Hash	684baecc52184c344587a06cfecce
4	Created Date	7/31/2018
5	Accessed Date	8/1/2018
6		
7	Name	Bao
8	Path	Item 1.E01/Partition 2/TI105322W0F
9		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
10		Shared Folder/yummybao.mpg
11	File Type	MPEG 2.0 Video
12	SHA1 Hash	00ebf12b576cf53a02991cb87c8e
13	Created Date	8/6/2018
14	Accessed Date	8/21/2018
15		
16	Name	The Good Dinosaur
17	Path	Item 1.E01/Partition 2/TI105322W0F
18		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
19		Shared Folder/TheGoodDinosaur.divx.avi
20	File Type	Riff Avi
21	SHA1 Hash	dcce590c5a9dc42e9a5eedadd4
22	Created Date	6/1/2019
23	Accessed Date	6/5/2019
24		
25	Name	Lion King
26	Path	Item 1.E01/Partition 2/TI105322W0F
27		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
28		Shared Folder/LionKing.avi
29	File Type	Riff Avi
30	SHA1 Hash	c50cc6185b505f44c8684c98
31	Created Date	6/17/2019
32	Accessed Date	6/19/2019
33		
34	Name	Finding Dory
35	Path	Item 1.E01/Partition 2/TI105322W0F
36		[NTFS]/[root]/Users/kai/AppData/Local/Mars/My
37		Shared Folder/Video.FindingDory.mpg
38	File Type	MPEG 1.0 Video
39	SHA1 Hash	78986feeb01de8ccd8941b6b9beca
40	Created Date	9/5/2019
41	Accessed Date	9/24/2019
42		
43	Name	Maleficent.MOV
44	Path	Item 1.E01/Partition 2/TI105322W0F
45		[NTFS]/[root]/Users/kai/Videos/Maleficent.MOV
46	File Type	QuickTime
47	SHA1 Hash	5fef27832e6f195ca422971a287adb
48	Created Date	5/31/2017
49	Accessed Date	5/31/2017
50		

DANA FUJIKAWA WRITTEN STATEMENT

1 My name is Dana Fujikawa and I have been a resident of Honolulu since 2010. Since
2 2010, I have lived at 2000 Keahole Street. In 2019, Kai Carpenter became my roommate and
3 moved into my house in Hawaii Kai. We were living together happily until his recent arrest.
4 Now he lives at the local jail and I hope I never see him again.

5 I've known Kai for a long time because our families are friends. We both lived in Las
6 Vegas for several years. Once I moved to Honolulu to teach, though, I didn't see Kai much
7 anymore. We just sort of lost touch, you know? But in the summer of 2018, we reconnected at
8 my brother's engagement party in Las Vegas. It wasn't hard to pick up our friendship again and
9 I was really happy to see Kai. At some point Kai told me that he had recently ended a very
10 serious relationship – they were even engaged for a while – and he had been feeling really down.
11 He said that he was thinking about getting a fresh start somewhere else but didn't know where to
12 go. We kept in touch after the wedding and Kai even came out to Honolulu to visit. He ended
13 up really liking Honolulu and said that maybe he should move out here too; maybe it was just the
14 kind of fresh start he needed. I told him that if he wanted to move, then I was looking for a new
15 roommate and he could come live with me. It ended up being perfect for both of us: Kai got his
16 fresh start and I got a new roommate to help with the bills. Kai moved in around March of 2019.

17 At first, it was great. We got along really well as roommates. But the day the Honolulu
18 police showed up at my door was the worst day of my life because I knew my job with the
19 school was in jeopardy. When Inv. Roth told me what they were looking for I almost fainted. I
20 would NEVER download illegal movies and I'm shocked that Kai would ever do anything like
21 that. Even though I was in a state of shock, I was happy to cooperate with Inv. Roth. I led the
22 officer around the house and when Roth found our computers, I volunteered information about
23 whose computer was whose. My computer is the Dell laptop that was found in the living room.

24 At first I told Inv. Roth that I was the only one that used my computer, but that was only
25 because I was still in shock. The next day I was able to relax and that is when I realized that Kai
26 had used my computer before so I had no idea what he may have put on there because I knew I
27 had not put any movies on there. If my principal ever found out that I was downloading illegal
28 movies on a school issued computer I'm sure I would be fired right there on the spot.

29 Inv. Roth next found Kai's computer in his bedroom. As soon as he found it, I made sure

1 to tell him, “That is Kai’s Acer laptop. He is the only one that uses that computer. I have never,
2 ever used that computer. I’m positive I have never used that computer because I don’t even
3 know the password.”

4 Inv. Roth believed me and I could tell that the officer was not really suspicious of me but
5 was focusing their attention on Kai and I was happy to help. Inv. Roth took both computers but
6 told me that Roth was sure there would be nothing to find on my computer. I was still nervous
7 because when Roth left the house I wasn’t sure if maybe Kai had put something on it when I let
8 him use it. I was so relieved when I got word from Lt. Bryant that nothing was found on my
9 computer and I was allowed to come and pick it up.

10 After Kai was arrested I tried to cut off any ties with him that I could. But, at first Kai
11 kept trying to call me. He wanted me to meet with his attorney to help with his defense. I did
12 not really want to, but I guess I felt I owed it to him. I met with a member of his defense team to
13 see what they were going to say and to see if he was going to try to put the blame on me. Even
14 though Principal Souza knew I had nothing to do with all of this, I was still afraid that there
15 would be negative consequences at school if Kai brought my name into it.

16 My understanding is that Kai is still trying to deny that he put the illegal movies on his
17 computer and is claiming that he was framed. That is absolutely ridiculous. This is just like the
18 time he tried to get out of a larceny charge by saying I was the one that stole some liquor from
19 the ABC store when it was really him. I’m sure the jury is going to see right through his lies this
20 time just like they did then, and just like then he is going to be convicted and sent back to prison.
21 That is what he deserves.

22 I know I have a previous criminal record too, but smashing some mail boxes when you
23 are a 14 year old confused kid looking for attention is completely different than distributing
24 bootlegged movies when you are an adult.

Sworn and subscribed

Dana Fujikawa

December 7, 2019

Date

Addendum to December 7, 2019 Statement

1 I have come to the realization that I made a mistake in my earlier statement. I told Inv.
2 Roth, that I at no time used Kai Carpenter’s computer. I also put that statement into my written
3 statement dated December 7, 2019. On January 7, 2020, I testified at the preliminary hearing in
4 this case. After taking the oath, I was asked if I ever used Kai Carpenter’s computer, to which I
5 answered, “No.”

6 Upon further reflection, I now recall a time in the summer of 2019, that my laptop was
7 not working properly and I needed to ask Kai for permission to use his laptop. I needed to enter
8 grades for my students and that is the only reason I used his laptop. Kai was present when I used
9 his laptop, and entered his password for me rather than telling me his password.

10 I was not purposefully being untruthful before, I simply forgot that I had used his laptop
11 until recently when I was entering grades again for my students and it reminded me. As soon as
12 I finished entering the grades I called Inv. Roth to let him know.

Sworn and subscribed

Dana Fujikawa

March 6, 2020
Date

Report of Computer Forensics Expert For Kai Carpenter

Prepared by: Fallon Watanabe

Date: March 5, 2020 .

1 My name is Fallon Watanabe and I'm employed as a computer security consultant and digital
2 forensic examiner. I was retained by the Defendant at a cost of \$2,000 per hour to review the forensic
3 report prepared by Lt. Bryant in this case. I hold a degree in computer forensics investigations from
4 Rutgers, the State University of New Jersey and have been a consultant for four years. Prior to
5 consulting, I worked for two years training personnel in the Hawaii State Sheriff's Department
6 computer forensics lab.

7 When you access the internet, access is gained through the use of a browser. There are several
8 products available that serve as browsers: Internet Explorer, Google Chrome, Apple Safari, Firefox, to
9 name a few. So what you do is, when you get on the internet, you go to a browser, and that is where you
10 type the page you want to visit. As part of your experience in visiting those pages, some of the pages are
11 cached. Cached means that the computer will take those pages, and they will save some of the
12 information or areas that you access frequently so that they can be displayed faster for future use.

13 What that also means is that there's a cache record of those pages that were active and visited that
14 remains in the computer until it is actively cleared out. In addition, a history record is kept by the internet
15 browser itself in order to facilitate repeated search histories. Because a computer keeps this information,
16 a review of the cache and browser history can provide excellent information about a computer's use that
17 is not necessarily picked up in a standard forensic report.

18 Lt. Bryant's report is excellent, and I do not question the information obtained, and agree that the
19 file data Lt. Bryant obtained is accurate. But I focused on different information than what Lt. Bryant
20 chose to focus on. Namely who was using the computer at the time certain activity was taking place.
21 Quite frankly, computers gather and store so much information that if you ask ten different forensic
22 examiners what is the most important thing to focus on, you will get 10 different answers.

23 I like to look at cache and browser history because it tells me more about the user than simply who
24 the registered owner of the computer is. Understandably, the registered owner of the computer in
25 question was the Defendant, but we have all used and had access to computers that we are not the
26 registered owner of, so ownership is not entirely indicative of who was using the computer.

27 Let us look first at the presence of Mars on the computer. Mars is a software program that allows

1 a user to download and share files with other people. If other people have music or videos on their
2 computer, then you can get those files so long as they are sharing them. However, merely because Mars
3 is on a computer does not automatically alert a user that there are illegal videos present. In order to know
4 about the contraband file, you would have to open Mars and actively look for the file. All programs store
5 data on a computer; for example, if you are using Microsoft Word, you don't know what the contents of a
6 specific document are unless you open the document and read it.

7 Lt. Bryant was able to do something that I was not able to do, namely run the system in a
8 virtualized environment and be able to review the setting. However, Lt. Bryant did share the results of the
9 investigation with me. In reviewing the Mars settings, I determined that the settings resemble what I have
10 observed to be the default settings, the settings that one would expect upon installation without any
11 changes or customizations.

12 With the default settings, as soon as the computer is turned on, Mars begins to run automatically.
13 The fact that Mars is running is indicated by the presence of a Mars icon at the bottom of the desktop task
14 bar in the lower right-hand corner. However, the icon is fairly small and is very easily missed by
15 someone not looking for it. The default settings also automatically place any downloaded videos into the
16 "shared" folder, so a user does not have to choose to share with others in the Mars community, rather the
17 program does it for them. A user can easily switch off this option, but again, if you are unfamiliar with
18 the program you would not be aware of this setting. One reason many users keep the automatic share
19 feature engaged is that there is an additional feature that restricts a user's ability to download files from
20 other Mars users if the downloading user does not actively share a certain percentage of their Mars files.
21 This feature insures that the community is working together to maximize the number of files available in
22 the network for users to download.

23 My biggest concern when I reviewed Lt. Bryant's forensic report was the speedy exclusion of
24 Dana Fujikawa as the potential user who downloaded the copyright infringed materials. As a roommate,
25 it would be easy for Dana Fujikawa to gain access to Mr. Carpenter's computer and download whatever
26 files Fujikawa desired. While Carpenter's computer was password protected, Carpenter informed his
27 attorney that Fujikawa had been given his password when he first moved into the home.

28 In addition, I believe it is clear that Fujikawa has lied about using the Defendant's computer.
29 Fujikawa claims to have never used this computer, however, a review of the cache and browser
30 information shows that at some time the email address DFujikawa@QES.k12.us was checked from the
31 computer identified as Mr. Carpenter's. In addition, a review of the internet history contained in the
32 browser history shows that on September 11, 2019, there is access to the Hawaii DOE system.

1 Specifically to an area that has things like a gradebook and attendance and things of that nature. When I
2 reviewed this web page I could confirm that it was a school web site that required both a log in and
3 password. This is information that only Dana Fujikawa would have access to.

4 As I continued to look at the internet history, there were additional searches and websites that
5 appear to be related to subjects that would interest Fujikawa on both April 24, 2018, and August 19, 2019
6 as well as with many other dates in 2019. These were subjects all related to education and Fujikawa is a
7 teacher. It is my opinion that based on the internet history Dana Fujikawa is as likely a suspect for
8 downloading the illegal files found on Mr. Carpenter's computer as Mr. Carpenter himself.

9 Of the materials in this case, I am familiar with the Report of Forensic Examination produced by
10 Lt. Bryant and the accompanying Forensic Report File Data. I am not aware of any statements made by
11 other witnesses.

Sworn and subscribed

Fallon Watanabe

WRITTEN STATEMENT
Sam Pascua

1 My name is Sam Pascua, I am a lifelong friend of Kai Carpenter and I can tell you
2 without hesitation that there is no way Kai downloaded illegal movies. Kai and I went to high
3 school together. We have been best friends since the 3rd grade. On October 14, 2005, my family
4 and I moved to Honolulu so you can imagine how thrilled I was when Kai moved to Honolulu on
5 September 25, 2006. You may be surprised by how easily I remember such specific information
6 as the actual days we moved, but I have always been told that I have a fantastic memory.

7 Kai and I lived down the street from one another all through school, we stayed friends,
8 mostly because most of the other kids in our neighborhood were Oakland Raiders fans, and both
9 Kai and I hated, I mean hated the Raiders. On December 2, 2012, I moved to San Francisco for a
10 new job. It was sad leaving Kai, but I knew I would be back to visit my family a lot so I would
11 still see him. And I did. I made frequent trips home whenever I could and when I did, I would
12 always visit Kai. He had moved out of his parents' home and into an apartment in Honolulu on
13 Date Street.

14 In 2015, the restaurant I was working at, Cheesecake Factory, announced they were
15 expanding with a new restaurant in Honolulu. They were looking for staff to help train the new
16 employees in Honolulu and I jumped at the chance because it would let me be in Hawaii for a
17 few months. Kai was still at the apartment on Date St., but he had just recently had a fight with
18 his roommate and was looking for someone to move into the extra room. Kai told me he caught
19 his roommate doing something on his computer so Kai asked him to leave. On January 6, 2015,
20 I moved in with Kai, and for the next seven months he and I shared the apartment, shared the
21 bills, and yes, he let me share his computer.

22 I know Kai is now in trouble for some illegal movies that were found on his computer,
23 but I know someone else must have put that stuff on there. Kai always had roommates off and
24 on over the years, and each one is sketchier than the last – but not me of course. Anyone one of
25 them could have done it. I know when we were living together Kai let me use his computer. It
26 was password protected, but just like Kai shared his password with me, I'm sure he shared it
27 with the others. I remember the password was something odd and very difficult to remember,
28 but I know he shared it with me.

29 After I moved back to San Francisco, I continued to make trips back to Honolulu to visit

1 my family, and when I did, I would always stop by and see Kai. After I left, Kai got a new
2 roommate, Morita. I specifically remember that almost every time I would visit Kai, I would see
3 Morita in the apartment using a computer. I can't be sure, but it appeared to me that he was
4 using Kai's computer. I did not think anything of it then, but now it all seems very suspicious. I
5 even recall times I was at Kai's apartment waiting for him to get home from work and I would
6 see Morita on Kai's computer, so he must have had the password.

7 I met Dana Fujikawa for the first time sometime in 2018 at a party. I did not really like
8 Fujikawa. Fujikawa seemed to be real untrustworthy to me. Kai even told me about a time
9 Fujikawa had been kicked out of school for stealing or something like that. But Kai seemed to
10 like Fujikawa, so I didn't think much of it.

11 On August 5, 2018, I happened to be in town to check on my father who had been having
12 some medical problems. Kai called and asked me to help him move Morita out of the apartment.
13 It seems that the two of them had a falling out; Kai told me that once again it involved his
14 computer. That and something about the use of performance enhancing substances, but I tried to
15 not get too involved.

16 It was not long after Morita moved out that Kai had to leave the Date St. apartment. He
17 was having trouble making the rent so he emailed me to tell me he was moving in with an old
18 friend of ours Ozzie Segawa. After that that Kai moved to Hawaii Kai and moved in with
19 Fujikawa.

20 Once all the trouble started, I got a call from Inv. Roth. I answered his questions as best
21 as I could. I told Inv. Roth that I had lived with Kai and about how Kai was very generous about
22 his computer. Kai's attorney called me to ask about something I said to Inv. Roth. The Inv.
23 claims I told him that Morita moved out in January not August. If I did say that, my memory
24 must have been failing me. I am certain Morita was living with Kai all the way up to August 5,
25 2018.

Sworn and subscribed

Sam Pascua

WRITTEN STATEMENT

Kapua Souza

1 My name is Kapua Souza. I am the principal at Queen Elementary School in Honolulu .
2 It is in that capacity that I supervise Dana Fujikawa, a teacher at QES. In my opinion, Fujikawa
3 is an outstanding teacher and a wonderful person. Fujikawa's reputation around the school is
4 outstanding. Based on a series of unfortunate incidents that took place last year involving some
5 baseless accusations, the other teachers and I have had numerous conversations about Fujikawa's
6 reputation for truthfulness; I can say without hesitation that Fujikawa's reputation is outstanding.

7 I am well aware of the situation involving Fujikawa's roommate. Fujikawa reported the
8 incident so that I could get word out to the parents of our students should there be any question
9 as to the professionalism of our teachers, or the appropriateness of our actions here at the school.
10 Because Fujikawa was clearly not involved, it has not been much of an issue for me or the
11 school. If Fujikawa had been involved, I can't even imagine how devastating this would be for
12 the school and for me in particular.

13 I feel so tremendously sorry for Fujikawa. Being such a wonderful and loyal person,
14 Fujikawa, while being disgusted by Mr. Carpenter's actions, has continued to be there for him. I
15 speak with Fujikawa every week and hear about the phone calls and visits to the jail that I
16 understand really lift Mr. Carpenter's spirits. I personally would have broken off contact with
17 this dirt bag as soon as I heard what he was up to. Fujikawa has told me that that is not the way
18 they were raised. Fujikawa said that as difficult as it may be, staying in touch with Carpenter for
19 as long as it takes is the right thing to do, no matter how wrong Carpenter's behavior was.
20 Because Fujikawa is trying to be there for Carpenter, I try to be there for Fujikawa.

21 Fujikawa was particularly upset in March, when Carpenter's defense team let it slip that
22 their strategy was to try to point the finger at Fujikawa. They would question whether Fujikawa
23 may have been responsible for the illegal movies. I find this particularly disgusting seeing that
24 Fujikawa told me they never even had access to Carpenter's computer. And why would they.
25 Every teacher at QES is issued a laptop for their use both here at school and at home. Computers
26 have become essential to our work. Lesson plans are completed on them, classroom attendance
27 is recorded, student grades are uploaded, and we use email to communicate both with one
28 another and with students and parents alike.

29 The issued computers are intended to be used to facilitate the teacher's ability to perform

1 their school responsibilities. Therefore, we require very strict upkeep on the systems. Because
2 some people are not as technologically savvy as others, we require that any maintenance
3 performed be done by our computer specialist. To make sure the systems stay in good working
4 order, every issued computer must be checked by our computer specialist at least once every six
5 months, and any technical problems are required to be reported as soon as possible. I personally
6 keep the records of the routine checks in my office as a part of my responsibilities as principal of
7 QES.

8 Now we are well aware of the many social and personal applications for which computers
9 used. It would be ridiculous to require all of our staff to maintain two computers in their life.
10 With that in mind, we do not limit our staff to using their computers for work purposes only.
11 But, we are a public school, so not all activity can be allowed. As a particular example,
12 employees are not allowed to download pirated files or media files that may be in violation of
13 copyright laws. Because of the prevalence of copyright infringement with programs like Napster
14 or Ares, any software that utilizes peer to peer networks are specifically prohibited.

15 We try to avoid the impression that “Big Brother” is watching, but to ensure that our
16 systems are being used appropriately, we do perform a system check during the semi-annual
17 maintenance reviews. Not that I was concerned, but just to be thorough, I did review Fujikawa’s
18 system records. Just as I expected, I found no inappropriate downloads or prohibited programs.
19 As a matter of fact, no issues with Fujikawa’s system have been reported since the computer was
20 issued in January 2019.

21 I still cannot believe that Carpenter is trying to blame other people for putting illegal
22 content on his computer. Fujikawa was devastated to learn that despite the continued visits,
23 phone calls, and loyal support, Carpenter was blaming Fujikawa for downloading the illegal
24 movies. Fujikawa was so upset about this that for a few days in March of this year I had to allow
25 for some personal days.

26 I think the final straw for me was when I went by Fujikawa’s house. I made lasagna
27 because I assumed Fujikawa would be in no mood to cook. When I went to put it in the
28 refrigerator there on the door was a taped index card with the words, “LoseRaidersLose2003”.
29 As a lifelong Raiders fan, I was really annoyed that Carpenter would find joy in the fact that the
30 Raiders lost the Super Bowl in 2003, their last time in the big game. I know it must have been
31 Carpenter who wrote it because Fujikawa and I have bonded over our support of the Raiders
32 before. But I guess I should not be surprised that someone disgusting enough to download

1 illegal movies would also be a hater of team like the Raiders. A team that stands for all that is
2 right and good in this world. Well, jokes on him now because the Raiders are doing well in Las
3 Vegas!

Sworn and subscribed

Kapua Souza

United States of America v. Kai Carpenter Instructions for the jury

The Defense in this case does not dispute that the videos found on the computer in question meet the definition of copyright infringement. Rather, the Defense will argue that there is insufficient evidence to find that the Defendant was in knowing possession of any of the videos, and additionally, that the prosecution has failed to prove beyond a reasonable doubt that the Defendant had the requisite intention to distribute the videos found in the computer's "Mars Shared Folder".

INSTRUCTION NUMBER 1

The Court instructs the jury that you are the judges of the facts, the credibility of the witnesses, and the weight of the evidence. You may consider the appearance and manner of the witnesses on the stand, their intelligence, their opportunity for knowing the truth and for having observed the things about which they testified, their interest in the outcome of the case, their bias, and, if any have been shown, their prior inconsistent statements, or whether they have knowingly testified untruthfully as to any material fact in the case.

You may not arbitrarily disregard believable testimony of a witness. However, after you have considered all the evidence in the case, then you may accept or discard all or part of the testimony of a witness as you think proper.

You are entitled to use your common sense in judging any testimony. From these things and all the other circumstances of the case, you may determine which witnesses are more believable and weigh their testimony accordingly.

INSTRUCTION NUMBER 2

The Court instructs the jury that the defendant is presumed to be innocent. You should not assume the defendant is guilty because he is on trial. This presumption of innocence remains with the defendant throughout the trial and is enough to require you to find the defendant not guilty unless and until the government proves each and every element of the offense beyond a reasonable doubt. This does not require proof beyond all possible doubt, nor is the government required to disprove every conceivable circumstance of innocence. However, suspicion or probability of guilt is not enough for a conviction.

There is no burden on the defendant to produce any evidence.

A reasonable doubt is a doubt based on your sound judgment after a full and impartial consideration of all the evidence in the case.

INSTRUCTION NUMBER 3

You have been instructed on more than one grade of possession of material subject to copyright infringement. If you have a reasonable doubt as to the grade of the offense, then you must resolve that doubt in favor of the defendant, and find him guilty of the lesser offense.

For example, if you have a reasonable doubt as to whether he is guilty of possession of material subject to copyright infringement with intent to you shall find him guilty of possession of material subject to copyright infringement.

If you have a reasonable doubt as to whether he is guilty of possession of material subject to copyright infringement, you shall find him not guilty.

INSTRUCTION NUMBER 4

To possess with intent to distribute requires that the defendant have intent to distribute at the time of possession. In determining whether there is possession with intent to distribute, you may consider all facts and circumstances.

INSTRUCTION NUMBER 5

Intent is a purpose formed in a person's mind, which may be proven by circumstantial evidence.

INSTRUCTION NUMBER 6

The defendant does not have to testify, and exercise of that right cannot be considered by you.

Case Law and Relevant Statutes

Davis v. United States (U.S. Supreme Court)

A defendant's request for an attorney during a custodial interrogation must be clear. The request was not clear when the defendant said "Maybe I should talk to a lawyer," but when asked whether he was asking for a lawyer the individual said he was not. If the request for an attorney is ambiguous or equivocal in that a reasonable officer in light of the circumstances would have understood only that the suspect *might* be invoking the right to counsel, then the officers do not need to stop questioning the suspect.

United States v. Williams (5th Cir.)

Several packages of cocaine were sent through U.S. mail to multiple individuals. The defendant sought to exclude evidence of all other packages sent to other individuals under Rule 404(b). Court of Appeals found that exclusion was not warranted because the similarity of all the packages evidenced a modus operandi. Even the packages that did not contain cocaine could have been tests of the mail system. Evidence was also not outweighed by unfair prejudice and was relevant to case.

Destruction of Property Misdemeanor, Hawaii Code § 18.2-137

It is unlawful to destroy, deface, or damage without the intent to steal the property of another, both real and personal property. It is a Class 1 misdemeanor if the value of the damaged property is less than \$1,000.

Grand Larceny, Hawaii Code § 18.2-95

Any person who (i) commits larceny from the person of another of money or other thing of value of \$ 5 or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of \$ 200 or more, or (iii) commits simple larceny not from the person of another of any firearm, regardless of the firearm's value, shall be guilty of grand larceny, punishable by imprisonment in a state correctional facility for not less than one nor more than twenty years or, in the discretion of the jury or court trying the case without a jury, be confined in jail for a period not exceeding twelve months or fined not more than \$ 2,500, either or both.