

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

USA,)
)
Plaintiff)
v.) Crim. No. 98-14-B
)
PAUL A. BEATTIE,)
)
Defendant)

ORDER DENYING DEFENDANT’S MOTION TO DISMISS

BRODY, District Judge

Defendant, Paul A. Beattie, has been charged with possessing and receiving child pornography in violation of 18 U.S.C. §§ 2252A(a)(5)(B) and 2252A(a)(2)(B). Defendant brings this Motion to Dismiss the Indictment against him on the basis that sections 2252A(a)(5)(B) and 2252A(a)(2)(B), as applied with the definition of “child pornography” contained in 18 U.S.C. § 2256(8)(B), are unconstitutionally vague and overbroad. Specifically, Defendant objects to language in section 2256(8)(B) which includes within the definition of “child pornography” visual depictions which “appear[] to be[] of a minor.” The Government responds that the Indictment in this case defines the child pornography Defendant is charged with receiving and possessing as “computer graphic images the production of which involved the use of minors engaging in sexually explicit conduct.” This definition, the Government contends, tracks the definition of child pornography set forth in section 2256(8)(A), and is independent of the “appears to be” definition set forth in section 2256(8)(B). A hearing on this motion was held on May 15, 1998.

The Court is persuaded by the Government’s argument. Because the Court finds that the

language in the Indictment tracks the definition of “child pornography” set forth in section 2256(8)(A) and does not implicate the “appears to be” language set forth in section 2256(8)(B), the Court denies Defendant’s Motion to Dismiss. In so holding, the Court does not reach the issue of whether section 2256(8)(B) is unconstitutionally vague and/or overbroad.

SO ORDERED.

MORTON A. BRODY
United States District Judge

Dated this ____ day of May, 1998.