

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-5183

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CLINTON WILLIAMS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Lacy H. Thornburg, District Judge. (1:08-cr-00035-LHT-1)

Submitted: January 12, 2010

Decided: February 8, 2010

Before NIEMEYER, MICHAEL, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Claire J. Rauscher, Executive Director, Matthew R. Segal, FEDERAL DEFENDERS OF WESTERN NORTH CAROLINA, INC., Asheville, North Carolina, for Appellant. Edward R. Ryan, Acting United States Attorney, Cortney Escaravage, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clinton Williams appeals his conviction under 18 U.S.C.A. § 2251(a) (West Supp. 2009) for sexual exploitation of a minor for the purpose of producing a physical depiction. Williams raises only one issue on appeal: whether the district court correctly concluded that the statute's application to purely intrastate production of child pornography was within Congress's power under the Commerce Clause.

Williams' argument that the lower court erred is clearly foreclosed by this Circuit's precedent. United States v. Malloy, 568 F.3d 166, 180 (4th Cir.), petition for cert. filed, 78 U.S.L.W. 3271 (S. Ct. 2009) (No. 09-523); United States v. Forrest, 429 F.3d 73, 78 (4th Cir. 2005). Further, we lack authority to reconsider this court's prior decisions. "[A] panel of this court cannot overrule, explicitly or implicitly, the precedent set by a prior panel of this court. Only the Supreme Court or this court sitting en banc can do that." Scotts Co. v. United Indus. Corp., 315 F.3d 264, 271-72 n.2 (4th Cir. 2002) (internal quotation marks omitted). Accordingly, we affirm Williams' conviction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED