

IN THE SUPREME COURT OF THE STATE OF NEVADA

DION FABION CASTEEL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53976

**FILED**

MAR 11 2010

TRACEE K. LINDSEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an amended judgment of conviction, pursuant to a jury verdict, of twelve counts of sexual assault of a minor under fourteen years of age and four counts of the use of a minor in producing pornography. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

On direct appeal, this court reversed eight of twelve counts of using a minor in producing pornography and remanded the matter for the entry of an amended judgment of conviction or, at the district court's discretion, resentencing. Casteel v. State, 122 Nev. 356, 363 & n.17, 131 P.3d 1, 5 & n.17 (2006). Nearly three years after the remittitur issued, the district court entered an amended judgment of conviction. Appellant appeals on two grounds.

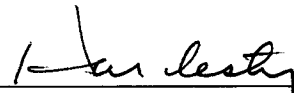
First, appellant argues that his due process and speedy sentencing rights were violated by the district court's delay in following this court's directive related to the reversal of the eight pornography counts. Appellant speculates that the delay resulted in a different district court judge acting on the remand and may have denied him access to available prison programs. We conclude, however, that appellant failed to

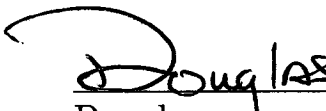
demonstrate any prejudice related to the delay in amending the judgment of conviction.


Second, appellant contends that his right to due process was violated by the district court's refusal to evaluate his past criminal history or consider the facts of the case and resentence him. We disagree. Our decision clearly permitted the district court to enter an amended judgment in this matter rather than resentence appellant. See id. Therefore, we conclude no constitutional error occurred.

Having considered appellant's claims and concluded that they lack merit, we

ORDER the amended judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. David B. Barker, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk