

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL D. GREEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54650

FILED

DEC 10 2010

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a nolo contendere plea, of ten counts of possession of visual pornography of a person under 16 years of age, attempted lewdness with a child under 14 years of age, attempted use of a minor as a subject in producing pornography, and unlawful use of personal identifying information of another for a harmful or unlawful purpose. Third Judicial District Court, Churchill County; Leon Aberasturi, Judge.

Green claims that: (1) the search of his residence violated his Fourth Amendment rights; (2) the State produced insufficient evidence at the preliminary hearing to bind him over for trial; (3) some of the counts of possession of child pornography with which he was charged were based on duplicates of the same photo; and (4) the district court erred in denying his motion to sever some counts because cross-admissible evidence would be inflammatory and prejudicial. Because Green pleaded nolo contendere, he is precluded from arguing these pre-plea claims on direct appeal. See Kirksey v. State, 112 Nev. 980, 999, 923 P.2d 1102, 1114 (1996); Hubbard v. State, 110 Nev. 671, 677, 877 P.2d 519, 522 (1994). Green also asserts a claim of ineffective assistance of counsel, which is also inappropriate for consideration here. See Corbin v. State, 111 Nev. 378, 381, 892 P.2d 580,

582 (1995). Finally, to any extent that Green attacks the validity of his plea, that claim must be made in the district court in the first instance. See Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Leon Aberasturi, District Judge
Martin G. Crowley
Attorney General/Carson City
Churchill County District Attorney
Churchill Co. Clerk