

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES RICHARD ROGERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56248

FILED

NOV 18 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of three counts of lewdness with a child under 14 years of age, two counts of sexual assault of a child under 14 years of age, and one count of use of a minor under 14 years of age in the production of pornography. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

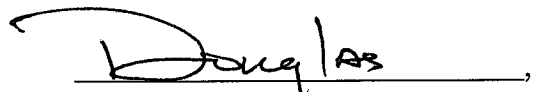
Rogers' sole contention on appeal is that the district court's \$50,000 fine imposed for the use of a minor in the production of pornography constitutes cruel and unusual punishment under the Eighth Amendment. He argues that the fine is "of such a character as to shock the conscience and to violate principles of fundamental fairness." We disagree.

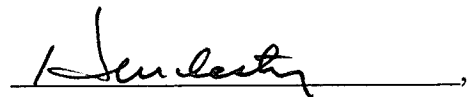
Regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience." Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

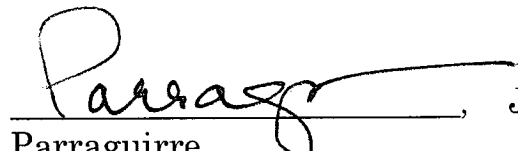
Here, Rogers does not challenge the constitutionality of the sentencing statute, and his sentence is clearly within the statutory parameters, as the fine imposed is substantially less than the \$100,000 allowed by NRS 200.750. And considering the serious and grave nature of Rogers' crimes, the fine imposed is not grossly disproportionate to his offenses. Therefore he has not demonstrated that the fine imposed constitutes cruel and unusual punishment under the Eighth Amendment.

Having considered Rogers' arguments and conclude that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

 J.
Douglas

 J.
Hardesty

 J.
Parraguirre

cc: Hon. Michael Villani, District Judge
Keith C. Brower
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk