

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD J. MCGUIRE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37461

FILED

APR 21 2003

ORDER OF AFFIRMANCE

JANEYTE M. GLOOM
CLERK OF SUPREME COURT
BY *J. Ribick*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of sexual assault on a minor under 16 years of age (count I), lewdness with a child under 14 years of age (count II), and use of a minor in producing pornography (count III). The district court sentenced appellant Edward J. McGuire to serve a prison term of 60 to 240 months for count I, a concurrent prison term of life with parole eligibility in 10 years for count II, and a concurrent prison term of 60 to 180 months for count III.

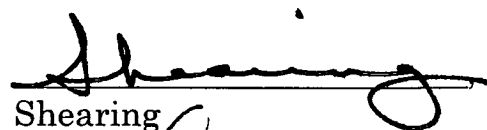
McGuire contends that Nevada's child pornography statutes, NRS 200.700 and NRS 200.710, are void for vagueness and overbroad. In particular, McGuire contends that: (1) NRS 200.700(2) is vague because the word "produce" is not defined; (2) NRS 200.710 is overbroad because it does not except sexual portrayals that have serious literary, scientific or educational value and improperly prohibits "simulation" of sexual activity; and (3) NRS 200.710 is vague because it does not require the defendant possessing the pornography to have knowledge at the time of the crime that the victim is a minor. We decline to consider McGuire's contentions.

The record before this court does not demonstrate that, prior to pleading guilty, McGuire challenged the constitutionality of the child pornography statutes in the district court or entered a conditional guilty

plea expressly preserving, in writing, the right to raise a constitutional challenge to the statutes on appeal from the judgment of conviction.¹ Generally, the entry of a guilty plea “represents a break in the chain of events which has preceded it in the criminal process,” and a criminal defendant who has pleaded guilty “may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea.”² Accordingly, we conclude that McGuire waived his right to challenge the constitutionality of NRS 200.700 and NRS 200.710 by pleading guilty.

Having considered McGuire’s contentions and concluded that they have not been preserved for review on direct appeal, we

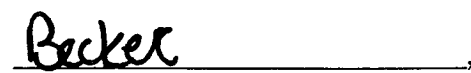
ORDER the judgment of conviction AFFIRMED.



Shearing J.



Leavitt J.



Becker J.

¹See NRS 174.035(3); State v. Emmons, 107 Nev. 53, 807 P.2d 718 (1991).

²Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975) (quoting Tollett v. Henderson, 411 U.S. 258, 267 (1973)).

cc: Hon. Stewart L. Bell, District Judge
Hinds & Morey
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk