

December 17, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-30380  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RANDY KEITH COLBURN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 03-CR-60038-ALL  
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Before KING, Chief Judge, and DeMOSS and CLEMENT, Circuit Judges.

PER CURIAM:\*

Randy Keith Colburn pleaded guilty to count one of an indictment charging him with production of child pornography in violation of 18 U.S.C. § 2251(a). Colburn contends for the first time on appeal that Congress exceeded its authority under the Commerce Clause to the extent that 18 U.S.C. § 2251(a) criminalizes the taking of Polaroid photographs of minors engaged in sexually explicit conduct, where the sole connection to interstate commerce is the out-of-state manufacture of the camera and film. Colburn concedes that this issue is foreclosed by our

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

opinion in United States v. Kallestad, 236 F.3d 225, 231-33 (5th Cir. 2000). He seeks to preserve the issue for Supreme Court review.

AFFIRMED.