

December 2, 2009

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JAMES HULS,

Defendant-Appellant.

No. 09-8046

(D.C. No. 1:08-CR-00275-ABJ-1)

(D. Wyo.)

ORDER AND JUDGMENT*

Before **LUCERO, McKAY**, and **MURPHY**, Circuit Judges.

After examining the briefs and the appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f).

Defendant entered a conditional plea of guilty to one count of failing to register as a sex offender and was sentenced to twelve months plus one day of imprisonment. This conviction arose from his failure to register as a sex offender in Wyoming when he moved there from Iowa, where he had been convicted of

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

lascivious conduct with a minor in January 2008. On appeal, he argues that his prosecution violated the Due Process and Commerce Clauses as well as the Tenth Amendment to the Constitution.

As Defendant acknowledges, his due process and commerce clause arguments are foreclosed by binding Tenth Circuit precedent. *See United States v. Lawrance*, 548 F.3d 1329 (10th Cir. 2008); *United States v. Hinckley*, 550 F.3d 926 (10th Cir. 2008). As for his argument that the Sex Offender Registration and Notification Act violates the Tenth Amendment, we agree with the government that Defendant lacks standing as an individual to pursue this claim. *See United States v. Parker*, 362 F.3d 1279, 1284-85 (10th Cir. 2004); *United States v. Hacker*, 565 F.3d 522, 526-27 (8th Cir. 2009). We accordingly **AFFIRM** the conviction and sentence.

Entered for the Court

Monroe G. McKay
Circuit Judge