

September 25, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-30788  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DUSTIN CHERAMIE, also known as Dustin Cole Cheramie,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:04-CR-340-1  
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Before KING, HIGGINBOTHAM, and GARZA, Circuit Judges.

PER CURIAM:\*

Dustin Cheramie appeals from his conviction of possession, receipt, and transportation of child pornography. Cheramie contends that the evidence was insufficient to support his conviction for transporting child pornography and therefore requests that this count be set aside. He argues that file sharing programs like the one he used differ from other uses of the Internet in that they do not require repeated volitional acts on the part of the user. Because the file sharing process does not require acts of volition, Cheramie suggests, a defendant who

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

has engaged in file sharing has not knowingly transmitted pornography.

We need not address the distinctions between file sharing programs and other forms of Internet usage. The evidence at trial was sufficient to prove that Cheramie knew that he was transmitting child pornography. See United States v. X-Citement Video, Inc., 513 U.S. 64, 69-78 (1994). The Government presented evidence that Cheramie saved images to different files after receiving them; those images had names clearly indicating that they were child pornography; and he confessed to having transmitted images to other individuals. We will not disturb the jury's credibility determinations. United States v. Molinar-Apodaca, 889 F.2d 1417, 1423 (5th Cir. 1979).

AFFIRMED.