

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-1417

United States of America,

Appellee,

v.

David John Luoma,

Appellant.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: October 7, 2009

Filed: October 8, 2009

Before BYE, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

David John Luoma appeals the district court's¹ imposition of a \$10,000 fine upon his guilty plea to a pornography offense, arguing that the court did not properly consider the burden the fine would place on Luoma's wife, and that the fine is unreasonable under the circumstances. We review the imposition of a fine and the determination of its amount for clear error. *See United States v. Herron*, 539 F.3d 881, 888 (8th Cir. 2008). Having carefully reviewed the record, we conclude that the court did not err: the court properly considered appropriate factors before imposing

¹The Honorable James M. Rosenbaum, United States District Judge for the District of Minnesota.

the fine, including Luoma's ability to pay the fine and the burden the fine would have on Luoma's wife, and the court imposed a fine at the bottom of the applicable Guidelines range. *See* U.S.S.G. § 5E1.2(d)(1)-(8) (factors court must consider before imposing a fine); *Herron*, 539 F.3d at 888-89 (record must provide sufficient information to establish factors were considered before fine is imposed).²

Accordingly, we affirm.

²Contrary to the government's position, we conclude that the issue was adequately preserved for appeal. *See United States v. Bauer*, 19 F.3d 409, 413 (8th Cir. 1994) (although defendant made only vague objection to his financial situation, defendant adequately preserved issue for appeal).