

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-1154

United States of America,

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Appellee,

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v.

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Appeal from the United States
District Court for the District
of South Dakota.

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James Felician Stead, Sr., also
known as Felician James Stead, Sr.,

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[UNPUBLISHED]

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Appellant.

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Submitted: September 7, 1999
Filed: September 14, 1999

Before BOWMAN, FAGG, and MURPHY, Circuit Judges.

PER CURIAM.

After a jury trial, James Felician Stead, Sr., was convicted of aggravated sexual abuse of a minor. See 18 U.S.C. §§ 1153, 2241(c), and 2246(2). On appeal, Stead challenges the constitutionality of Federal Rule of Evidence 413, which allows evidence of similar crimes in sexual assault cases. Stead's challenge, however, is foreclosed by this court's decision in United States v. Mound, 149 F.3d 799 (8th Cir. 1998), cert. denied, 119 S. Ct. 842 (1999). Stead also contends the district court abused its discretion under Federal Rules of Evidence 403 and 413 by admitting evidence of a past conviction for lewd conduct with a minor. A review of the record

shows that Stead's contention is without merit. See Mound, 149 F.3d at 801-02 (finding no abuse of discretion where district court undertook Rule 403 balancing, past conviction was for conduct similar to current charged conduct, and there was no evidence past conviction presented any danger of unfair prejudice beyond that presented by all propensity evidence allowed by Rule 413). We affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.