

NOT DESIGNATED FOR PUBLICATION

No. 112,932

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,  
*Appellee,*

v.

JAMES E. RUSSELL,  
*Appellant.*

MEMORANDUM OPINION

Appeal from Sedgwick District Court; STEPHEN J. TERNES, judge. Opinion filed October 30, 2015. Affirmed.

Submitted for summary disposition pursuant to K.S.A. 2014 Supp. 21-6820(g) and (h).

Before MALONE, C.J., PIERRON and SCHROEDER, JJ.

*Per Curiam:* James E. Russell appeals his sentence following his convictions of indecent liberties with a child and contributing to a child's misconduct. We granted Russell's motion for summary disposition in lieu of briefs pursuant to Supreme Court Rule 7.041A (2014 Kan. Ct. R. Annot. 66). The State filed a response and requested that the district court's judgment be affirmed.

On October 6, 2014, Russell pled guilty to indecent liberties with a child and contributing to a child's misconduct based on allegations that he smoked methamphetamine with a 14-year-old and fondled her. On November 20, 2014, the district court imposed a controlling sentence of 32 months' imprisonment with lifetime postrelease supervision. Russell timely appealed his sentence.

On appeal, Russell contends that his sentence of lifetime postrelease supervision "violated the Eighth Amendment to the United States Constitution and § 9 of the Kansas Constitution Bill of Rights." However, Russell acknowledges that he did not raise this issue in the district court. He further acknowledges that a claim of cruel and/or unusual punishment will not be reviewed for the first time on appeal.

Russell's sentence of lifetime postrelease supervision for his conviction of indecent liberties with a child was required by K.S.A. 2014 Supp. 22-3717(d)(1)(G) and (d)(5)(B). Moreover, pursuant to *State v. Naputi*, 293 Kan. 55, 67-68, 260 P.3d 86 (2011), an appellate court will not review an issue of cruel and unusual punishment for the first time on appeal, where the defendant failed to sufficiently raise the issue in the district court to allow an adequate development of the record. As acknowledged by Russell in his motion, this court will not consider the constitutional challenge to his sentence for the first time on appeal.

Affirmed.