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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. MICHAEL EUGENE HOLLIS, Defendant - Appellant.	No. 10-10445 D.C. No. 1:08-cr-00276-OWW-1 MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, Senior District Judge, Presiding

Argued and Submitted August 31, 2011
San Francisco, California

Before: FISHER and RAWLINSON, Circuit Judges, and WU, District Judge.**

Michael Eugene Hollis appeals from his resentencing following his conviction for distributing child pornography.

1. The district properly applied a vulnerable victim enhancement pursuant to U.S.S.G. § 3A1.1(b)(1), because "a district court can apply the

*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

**The Honorable George H. Wu, United States District Judge for the Central District of California, sitting by designation.

vulnerable victim enhancement where a child is so young and small that he or she is less able to resist than other child victims of pornography." *United States v. Lynn*, 636 F.3d 1127, 1138-39 (9th Cir. 2011) (citation omitted). The evidence showed that Hollis should have known that he possessed images and videos of children as young as two and four because some of the filenames referred to the ages of the children depicted.

2. Hollis has not shown that the district court failed to follow our mandate on remand. We directed the district court not to apply U.S.S.G. § 2G2.2(b)(3)(B), and the district court followed that directive. It was within the district court's discretion to resentence Hollis to 200 months. Nothing in the record indicates that the district court failed to appreciate its discretion under *Kimbrough v. United States*, 552 U.S. 85 (2007).

AFFIRMED.