



Jones v. United States

532 F.2d 750 (1976) | Cited 0 times | Fourth Circuit | January 29, 1976

Before HAYNSWORTH, Chief Judge, WINTER and WIDENER, Circuit Judges.

Per Curiam:

Steven Anthony Jones, having pleaded guilty to a violation of 18 U.S.C. § 2113(a), was sentenced on November 30, 1973, to a twelve year term. Pursuant to 28 U.S.C. § 2255, he seeks to have that sentence vacated, since, he alleges, the district judge neglected to consider sentencing him under the Federal Youth Corrections Act (FYCA), 18 U.S.C. § 5010, notwithstanding his eligibility for treatment as a youthful offender.

Dorszynski v. United States, 418 U.S. 424 (1974) requires that an initial finding be made that the eligible defendant would not benefit from sentencing under the FYCA before the otherwise authorized statutory penalty can be imposed upon him. The transcript of the sentencing proceeding (T. 2) reflects the view of the District Judge that the defendant "doesn't under the facts of this case fall in the class of being handled as a Youthful Offender, in my opinion." Such a finding fully comports with the dictates of Dorszynski. See 413 U.S. at 444. Where the district court makes this "no benefit" finding, we are precluded from reviewing the merits of that decision. United States v. Griffith, F.2d , No. 74-2005 (4th Cir., June 13, 1975).

Accordingly, the judgment of the District Court is affirmed.

