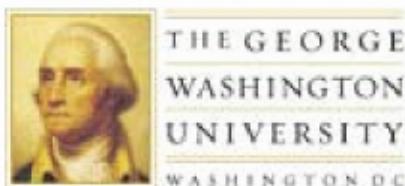


# The Burger Court Opinion Writing Database

*Dorszynski v. United States*

418 U.S. 424 (1974)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

March 30, 1974

Re: No. 73-5284 - Dorzynski v. United States

MEMORANDUM TO THE CONFERENCE:

The Court was evenly divided on this case without my vote. I have studied it more fully over the weekend and my vote is to reverse. I do not accept the contention that a sentencing judge must give reasons but the statute, although far from unambiguous, would seem to require some affirmative determination of "no benefit" to the convicted person from a commitment under the Youth Corrections Act. Here there are strong indications that it was considered but in view of the varying positions of the Circuits, we should construe the statute to call for an affirmative determination however ritualistic that may be in some cases.

Regards,

*W. O.*

To: Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

1st DRAFT

From: The Chief Justice  
JUN 11 1974  
Circulated: \_\_\_\_\_

SUPREME COURT OF THE UNITED STATES

No. 73-5284

Recirculated: \_\_\_\_\_

Douglas Dorszynski,  
Petitioner,  
v.  
United States. } On Writ of Certiorari to the United  
States Court of Appeals for the  
Seventh Circuit.

[June —, 1974]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari, 414 U. S. 1091 (1973), to resolve a conflict in the circuits concerning whether, in sentencing a youth offender under other applicable penal statutes, subsection 5010 (d) of the Youth Corrections Act of 1950, 18 U. S. C. § 5005 *et seq.*, requires a federal district court first to make an explicit finding, supported by reasons on the record, that the offender would not benefit from treatment under subsections 5010 (b) or (c) of that Act. The Court of Appeals held that such a finding may be implied from the record, 484 F. 2d 849 (1973). Three circuits have taken that position,<sup>1</sup> and two circuits have required an explicit finding accompanied by supporting reasons.<sup>2</sup> We conclude that while an ex-

<sup>1</sup> *Williams v. United States*, 476 F. 2d 970 (CA3 1973); *Cox v. United States*, 473 F. 2d 334 (CA4 1973) (en banc); *Jarratt v. United States*, 471 F. 2d 226 (CA9 1972), cert. denied, 411 U. S. 969 (1973); cf. *United States v. Walker*, 469 F. 2d 1377 (CA1 1972).

<sup>2</sup> *United States v. Kaylor*, 491 F. 2d 1133 (CA2 1974) (en banc); *United States v. Coefield*, — U. S. App. D. C. —, 476 F. 2d 1152 (1973) (en banc); cf. *United States v. Schenker*, 486 F. 2d 319 (CA5 1973) (en banc); see also *Small v. United States*, 304 A. 2d (DCCA 1973).

Stylistic - and

1, 17, 20

To: Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

2nd DRAFT

From: The Chief Justice

**SUPREME COURT OF THE UNITED STATES**

No. 73-5284

Recirculated: JUN 14 1974

Douglas Dorszynski,  
Petitioner,  
v.  
United States. } On Writ of Certiorari to the United  
States Court of Appeals for the  
Seventh Circuit.

[June —, 1974]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari, 414 U. S. 1091 (1973), to resolve a conflict in the circuits concerning whether, in sentencing a youth offender under other applicable penal statutes, subsection 5010 (d) of the Youth Corrections Act of 1950, 18 U. S. C. § 5005 *et seq.*, requires a federal district court first to make an explicit finding, supported by reasons on the record, that the offender would not benefit from treatment under subsections 5010 (b) or (c) of that Act. The Court of Appeals held that such a finding may be implied from the record, 484 F. 2d 849 (1973). Three circuits have taken that position,<sup>1</sup> and three circuits have required an explicit finding accompanied by supporting reasons.<sup>2</sup> We conclude that while an ex-

<sup>1</sup> *Williams v. United States*, 476 F. 2d 970 (CA3 1973); *Cox v. United States*, 473 F. 2d 334 (CA4 1973) (en banc); *Jarratt v. United States*, 471 2d 226 (CA9 1972), cert. denied, 411 U. S. 969 (1973); cf. *United States v. Walker*, 469 F. 2d 1377 (CA1 1972).

<sup>2</sup> *Brooks v. United States*, — F. 2d — (CA6, May 31, 1974) (No. 73-2195); *United States v. Kaylor*, 491 F. 2d 1133 (CA2 1974) (en banc); *United States v. Coefield*, — U. S. App. D. C. —, 476 F. 2d 1152 (1973) (en banc); cf. *United States v. Schenker*, 486 F. 2d 319 (CA5 1973) (en banc); see also *Small v. United States*, 304 A. 2d (DCCA 1973).

15  
CHAMBERS OF  
THE CHIEF JUSTICE

Supreme Court of the United States  
Washington, D. C. 20543

June 19, 1974

Re: Nos. 73-1533 - United States v. Hopkins  
73-6374 - Ferguson v. United States  
(held for 73-5284 - Dorszynski v. United States)

MEMORANDUM TO THE CONFERENCE:

Two cases have been held pending decision in Dorszynski v. United States, No. 73-5284, and appear on page 4 of the Conference List for June 21, 1974. I recommend disposition as follows:

No. 73-1533, United States v. Hopkins: Respondent was convicted of a federal offense by a jury in ED NY. At sentencing the trial judge indicated his awareness that respondent was eligible for sentencing under the Youth Corrections Act (respondent was 19), but elected not to sentence him under the Act. Although the judge had earlier stated that he would give great weight to the pre-sentence report (which subsequently noted four other possible criminal offenses respondent might have committed, and concluded he was immature, hostile, and intensely disliked authority), at sentencing the judge gave no reason for deciding to sentence respondent outside the Act. CA 2 affirmed (2-1), but CA 2 en banc reversed holding that the trial judge must make explicit findings, supported by reasons, why a youth offender would not derive benefit from treatment under the Act. CA 2 en banc viewed the Act as circumscribing the sentencing court's discretion. This holding is thus contrary to our decision in Dorszynski.

I will vote that judgment be vacated and the case remanded for reconsideration in light of Dorszynski.

No. 73-6374, Ferguson v. United States: Petitioner pleaded guilty to a charge of first degree murder in the D.C. Superior Court. He was eligible for sentencing under the Act, and was therefore sent to

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

June 14, 1974

Dear Thurgood:

Please join me in your dissent  
in 73-5284, Dorzynski v. U.S.

*W.O.D. by Sandra*

WILLIAM O. DOUGLAS

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

June 25, 1974

RE: 73-5284, DORSZYNISKI v. U.S.

Dear Thurgood:

Please join me in your rewritten  
opinion which I just received.

*Sandra for WOD*

William O. Douglas

Mr. Justice Marshall

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 24, 1974

RE: No. 73-5284 Dorzynski v. United States

Dear Thurgood:

I am still with you.

Sincerely,



Mr. Justice Marshall

cc: The Conference

73-5284

Supreme Court of the United States  
Memorandum

, 19

Dear Harry,  
Thanks very much  
for this. Harold has  
certainly done his  
usual conscientious

job

in full

WJB

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

June 12, 1974

MEMORANDUM TO THE CONFERENCE

The Sixth Circuit recently decided a case dealing with the issues presently before us in Dorszynski v. United States, No. 73-5284. Since the Sixth Circuit opinion has not yet been generally reported, I enclose a copy of the slip opinion for your information.

P. S.

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
WALTER E. STEWART

June 14, 1974

No. 73-5284, Dorszynski v. United States

Dear Thurgood,

Please add my name to your concurring opinion in this case.

Sincerely yours,

Mr. Justice Marshall

Copies to the Court

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

June 24, 1974

73-5284, Dorszynski v. U. S.

Dear Thurgood,

Confirming my telephone call to your clerk late last Friday, I continue to concur in your revised concurring opinion in this case.

Sincerely yours,

P. S.  
J.

Mr. Justice Marshall

Copies to Mr. Justice Douglas  
Mr. Justice Brennan

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 12, 1974

Re: No. 73-5284 - Dorszynski v. United States

Dear Chief:

I join your opinion in this case.

Sincerely,



The Chief Justice

Copies to Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

March 21, 1974

MEMORANDUM TO THE CONFERENCE

Re: No. 73-5284 -- Dorszynski v. United States

I thought the Conference might find it helpful to have before it copies of the full opinion from the recent 2d Circuit unanimous en banc decision on the Youth Corrections Act issue posed in the Dorszynski case.

*T.M.*

T. M.

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

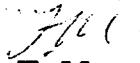
June 11, 1974

Re: No. 73-5284 -- Douglas Dorszynski v. United States

Dear Chief:

In short order I will circulate a dissent in this case.

Sincerely,

  
T.M.

The Chief Justice

cc: The Conference

6/3/74

No. 73-5284 Dorzynski v. United States

Mr. Justice Marshall, concurring.

The Court is today called upon to construe the provision of the Youth Corrections Act, 18 U.S.C. 5505 et seq., defining the circumstances under which a youth offender may be sentenced as an adult. The Youth Corrections Act provides a comprehensive sentencing scheme for offenders between the ages of 18 and 22, affording trial judges four options for sentencing such offenders. The judge may suspend imposition or execution of sentence and place the offender on probation. 18 U.S.C. 5010(a). Alternatively, the judge may sentence the offender for treatment and supervision at a special youth facility, to be discharged in no more than 6 years, 18 U.S.C. 5010(b), or he may commit the offender to a youth institution for a specified term, which may exceed 6 years, up to the maximum period authorized by law for the offense. 18 U.S.C. 5010(c). Finally, the judge may sentence the offender as an adult, pursuant to 18 U.S.C. 5010(d), which provides that:

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THURGOOD MARSHALL

June 21, 1974

Memorandum

To: Mr. Justice Douglas  
~~Mr.~~ Justice Brennan  
Mr. Justice Stewart

Re: No. 73-5284 -- Dorzynski v. United States

Because of the changes in the Chief Justice's latest draft, I have completely rewritten my opinion. Please let me know whether you continue to concur in this revised draft.



T. M.

No. 73-5284

the Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

From: Marshall, J.

Circulated:

Recirculated: JUN 21 1974

Dorzynski v. United States

Mr. Justice Marshall, with whom Mr. Justice Douglas, Mr. Justice Brennan, and Mr. Justice Stewart join, concurring.

The Court is today called upon to construe the provision of the Youth Corrections Act, 18 U.S.C. 5505 et seq., defining the circumstances under which a youth offender may be sentenced as an adult. The Youth Corrections Act provides a comprehensive sentencing scheme for offenders between the ages of 18 and 22, affording trial judges four options for sentencing such offenders.

The judge may suspend imposition or execution of sentence and place the offender on probation.

18 U.S.C. 5010(a). Alternatively, the judge may sentence the offender for treatment and supervision at a special youth facility, to be discharged in no more than 6 years, 18 U.S.C. 5010(b), or he may commit the offender to a youth institution for a specified term, which may exceed 6 years, up to the maximum period authorized by law for the offense. 18 U.S.C. 5010(c). Finally, the judge may sentence the offender as an adult, pursuant to 18 U.S.C. 5010(d), which provides that:

"If the Court shall find that the Youth offender will not benefit from treatment

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

From: Marshall, J.

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

Recirculated: \_\_\_\_\_

No. 73-5284

Recirculated: JUN 25 1974

Douglas Dorszynski,  
Petitioner,  
v.  
United States. } On Writ of Certiorari to the United  
States Court of Appeals for the  
Seventh Circuit.

[June 26, 1974]

and Mr.  
Justice  
Stewart

MR. JUSTICE MARSHALL, with whom MR. JUSTICE BRENNAN joins, concurring.

The Court is today called upon to construe the provision of the Youth Corrections Act, 18 U. S. C. §§ 5505 *et seq.*, defining the circumstances under which a youth offender may be sentenced as an adult. The Youth Corrections Act (YCA) provides a comprehensive sentencing scheme for offenders between the ages of 18 and 22, affording trial judges four options for sentencing such offenders. The judge may suspend imposition or execution of sentence and place the offender on probation. 18 U. S. C. § 5010 (a). Alternatively, the judge may sentence the offender for treatment and supervision at a special youth facility, to be discharged in no more than 6 years, 18 U. S. C. § 5010 (b), or he may commit the offender to a youth institution for a specified term, which may exceed 6 years, up to the maximum period authorized by law for the offense. 18 U. S. C. § 5010 (c). Finally, the judge may sentence the offender as an adult, pursuant to 18 U. S. C. § 5010 (d), which provides that:

"If the Court shall find that the Youth offender will not benefit from treatment under subsection (b) or (c) then the Court may sentence the youth offender under any other applicable provision."

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 19, 1974

Re: No. 73-5284 - Dorszynski v. U. S.

Dear Chief:

Please join me.

Sincerely,

*H. A. B.*

The Chief Justice

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

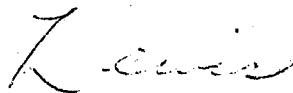
June 11, 1974

No. 73-5284 Dorszynski v. U.S.

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

1fp/ss

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 11, 1974

Re: No. 73-5284 - Dorszynski v. United States

Dear Chief:

Please join me.

Sincerely,

*ew*

The Chief Justice

Copies to the Conference