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Ralston v. Robinson: Changing a Youth Corrections Act Sentence in Midstream

Robert J. Camera

Ralston v. Robinson: Changing A Youth Corrections Act Sentence in Midstream

I. Introduction

The Federal Youth Corrections Act (YCA)[1] provides for the special treatment of convicted youth offenders whom the sentencing judge considers to be capable of rehabilitation into productive citizens.[2] The objectives of the YCA are furthered by segregating the youth offenders from the adult offenders and by providing them with educational and vocational training,[3] rather than merely giving them standard adult sentences. But, when a youth offender sentenced under the YCA commits further crimes, and shows little response to the special treatment under the YCA, the sentencing judge for the subsequent crime is faced with a dilemma. Although the youth offender has demonstrated that the YCA treatment is of "no benefit" to him, the first sentencing judge saw potential for improvement, and the prescribed YCA treatment leaves little room for modification by statute.[4] Circuits have split over the power of the second sentencing judge to modify the originally imposed YCA sentence under such circumstances.[5] The United States Supreme Court, in *Ralston v.*

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1. 18 U.S.C. §§ 5005-5026 (1976). *See infra* notes 9, 11, 52, 53, 56, 64, & 65 for the texts of the applicable sections of the YCA.

2. *See* S. REP. No. 1180, 81st Cong., 1st Sess. (1949); H.R. REP. No. 2979, 81st Cong., 2d Sess. (1950), *reprinted in* 1950 U.S. CODE CONG. SERVICE 3983.

3. *See* 18 U.S.C. § 5011 (1976), *infra* note 11; Dorszynski v. United States, 418 U.S. 424 (1977).

4. The statute provides a broad range of options to the first sentencing judge, *see infra* note 34 and accompanying text. However, once a youth offender is sentenced under the YCA, the statute is silent as to modifications of that sentence, except to reduce the sentence. *See* 18 U.S.C. § 5017 (1976), *infra* note 56.

5. *See, e.g.*, Robinson v. Ralston, 642 F.2d 1077, 1083 (7th Cir. 1981) (neither the Bureau of Prisons official nor a second sentencing judge had authority to modify treatment conditions of YCA sentence not yet expired, even though continued YCA treatment is viewed to be of "no benefit" to the youth offender); Outing v. Bell, 632 F.2d 1144 (4th Cir. 1980) (youth offender sentenced under YCA sentence to a concurrent or consecutive adult term forfeits YCA status and need not be segregated from adult offenders); Thompson v. Carlson, 624 F.2d 415 (3d Cir. 1980) (since second sentencing judge determined that continued YCA treatment would be of "no benefit" to the youth offender, the

Robinson,[6] finally resolved this dilemma, holding that a youth offender sentenced under the YCA could have his YCA treatment terminated and an adult sentence imposed, even though the sentence under the YCA had not yet expired, when continued YCA treatment was determined to be of "no benefit" to him.[7]

Part II of this note sets forth the factual background of *Ralston*, and Part III discusses the legal background of the YCA. Part IV presents the decision of the United States Supreme Court, and Part V analyzes the decision. This note concludes that the Court ignored the intent of the YCA and the well-stated common law rules in modifying the YCA treatment when it deemed such treatment as futile. A subsequent sentence imposed on a youth offender for a crime he was convicted of during his YCA treatment should not alter the original sentence he was given.

II. *Ralston v. Robinson:* Factual Background[8]

In 1974, John Carroll Robinson, age seventeen, pleaded guilty to a charge of second degree murder and was sentenced to ten years imprisonment under the YCA.[9] Conditions of his re-

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court affirmed immediate placement of the youth offender in adult treatment).

6. 454 U.S. 201 (1981), *reh'g denied*, 455 U.S. 929 (1982).

7. *Id.* at 217.

8. Unless otherwise indicated, the facts presented are taken from Justice Marshall's opinion for the majority of the Supreme Court, 454 U.S. 201 (1981) and from Judge Swygert's opinion for the court of appeals, Robinson v. Ralston, 642 F.2d 1077 (7th Cir. 1981).

9. Ralston v. Robinson, 454 U.S. at 203. 18 U.S.C. § 5010 (1976) provides that:

> (a) If the court is of the opinion that the youth offender does not need commitment, it may suspend the imposition or execution of sentence and place the youth offender on probation.
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> (b) If the court shall find that a convicted person is a youth offender, and the offense is punishable by imprisonment under applicable provisions of law other than this subsection, the court may, in lieu of the penalty of imprisonment otherwise provided by law, sentence the youth offender to the custody of the Attorney General for treatment and supervision pursuant to this chapter until discharged by the Commission as provided in section 5017(c) of this chapter; or
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> (c) If the court shall find that the youth offender may not be able to derive maximum benefit from the treatment by the Commission prior to the expiration of six years from the date of conviction it may, in lieu of the penalty of imprisonment otherwise provided by law, sentence the youth offender to the custody of the Attorney General for treatment and supervision pursuant to this chapter for any

lease included that he receive at least an eighth grade education and vocational training in a trade of his choice, that he undergo weekly individual therapy, and that he receive a complete psychological reevaluation.[10] Because Robinson was sentenced under the YCA, he, like all others sentenced under the YCA, was to be kept separated from adult offenders.[11]

In 1975, while in the Federal Correctional Institution at Ashland, Kentucky, Robinson was found guilty of assaulting a federal officer with a dangerous weapon.[12] This conviction resulted in a sixty-six month adult sentence to run consecutive to the YCA sentence.[13] This second judge did not sentence Robinson under the YCA because he felt it would not benefit Robinson to do so.[14] After transfers from prison to prison, Robinson was placed in the Federal Correctional Institution in Lompoc,

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further period that may be authorized by law for the offense or offenses of which he stands convicted or until discharged by the Commission as provided in section 5017(d) of this chapter.

(d) If the court shall find that the youth offender will not derive benefit from treatment under subsection (b) or (c), then the court may sentence the youth offender under any other applicable penalty provision.

(e) If the court desires additional information as to whether a youth offender will derive benefit from treatment under subsections (b) or (c) it may order that he be committed to the custody of the Attorney General for observation and study at an appropriate classification center or agency. Within sixty days from the date of the order, or such additional period as the court may grant, the Commission shall report to the court its findings.

Id.

10. Ralston v. Robinson, 454 U.S. at 204.

11. 18 U.S.C. § 5011 (1976) provides that:

Committed youth offenders not conditionally released shall undergo treatment in institutions of maximum security, medium security, or minimum security types, including training schools, hospitals, farms, forestry and other camps, and other agencies that will provide the essential varieties of treatment. The Director shall from time to time designate, set aside, and adapt institutions and agencies under the control of the Department of Justice for treatment. Insofar as practical, such institutions and agencies shall be used only for treatment of committed youth offenders, and such youth offenders shall be segregated from other offenders, and classes of youth offenders shall be segregated according to their needs for treatment.

Id.

12. The Court indicated that from the time of his original incarceration, Robinson's "subsequent conduct has not been exemplary." Ralston v. Robinson, 454 U.S. at 204.

13. This particular sentence was originally an additional ten-year adult sentence, but upon the recommendation of the Bureau of Prisons, it was reduced to a sixty-six month adult sentence to run consecutively with the YCA sentence. *Id.* at 204.

14. *Id.*

California; in 1977 he pleaded guilty to assaulting another federal officer.[15] For this offense Robinson received a one year and one day adult sentence to run consecutive to his prior two sentences.[16] After this second sentence as an adult offender was imposed, the Bureau of Prisons reclassified Robinson as an adult offender and no longer separated him from the adult prisoners.[17] As a result of this reclassification by the Bureau of Prisons, Robinson, after exhausting his administrative remedies, filed a writ of habeas corpus in the United States District Court,[18] claiming that he was entitled, under the YCA, to be separated from the adult prisoners.[19]

The district court granted the writ and the Seventh Circuit Court of Appeals affirmed,[20] holding that the Bureau of Prisons does not have the authority to reclassify a prisoner sentenced under the YCA, thereby treating him as an adult for the remainder of his YCA sentence.[21] The United States Supreme Court reversed in *Ralston v. Robinson*,[22] and held, by a 6-3 majority, that the YCA permits sentencing judges great latitude in imposing sentences, and a subsequent sentence can alter the original sentence by removing the offender from YCA treatment if such treatment will not benefit him further.[23] The court further held, however, that the YCA does not grant authority to the Bureau

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15. *Id.*

16. The judge in this second adult sentence made no explicit finding that Robinson would receive no benefit from a YCA sentence even though he could still have been sentenced under the YCA. Robinson v. Ralston, 642 F.2d at 1078.

17. Ralston v. Robinson, 454 U.S. at 204-05, 205 n.2.

Robinson asserted that he had never been segregated from non-YCA prisoners nor had he received special treatment. The Court noted, "although petitioner disputes this assertion, the record of frequent transfers lends some credence to [Robinson's] claim." The Court, however, did not address this issue, for it determined that such determination need not be made, given the "disposition of this case." *Id.*

18. The original writ was filed in the Southern District of Indiana. Petitioner was subsequently transfered to a penitentiary in Illinois, and the case was transfered to the Southern District of Illinois. Robinson v. Ralston, 642 F.2d at 1078.

19. *See supra* note 11.

20. Robinson v. Ralston, 642 F.2d 1077 (7th Cir. 1981).

21. *Id.* at 1083.

22. 454 U.S. 201 (1981).

23. *Id.* at 217. Justice Marshall wrote for the majority. Joining him were Chief Justice Burger, Justice White, Justice Blackmun, and Justice Rhenquist. Justice Powell wrote a concurring opinion. Justice Stevens wrote for the dissent in which Justice Brennan and Justice O'Connor joined. *Id.* at 202.

of Prisons to reclassify YCA offenders.[24]

III. *Ralston v. Robinson:* Legal Background

The YCA was drafted and presented to Congress in 1949 and became the Federal Youth Corrections Act in 1950.[25] The purpose of the YCA is to provide treatment[26] for convicted youth offenders[27] in an effort to rehabilitate such offenders with the hope of making them productive members of society. The United States Supreme Court, in its thorough analysis of the YCA in *Dorszynski v. United States,*[28] found two important factors that led to the eventual passage of the YCA:

> [f]irst, the period of life between 16 and 22 years of age was found to be the time when special factors operated to produce habitual criminals. Second, then existing methods of treating criminally inclined youths were found inadequate in avoiding recidivism.[29]

The YCA is modeled after the English Borstal System,[30] which substitutes rehabilitation for retribution as the goal of

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24. *Id.*

25. The Federal Youth Corrections Act, 18 U.S.C. §§ 5005 - 5026 (1976). *See* Dorszynski v. United States, 418 U.S. 424, 432 n.8 (1977).

26. " 'Treatment' means corrective and preventitive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders." 18 U.S.C. § 5006(f) (1976).

27. " 'Youth offender' means a person under the age of twenty-two years at the time of the conviction." *Id.* § 5006(d) (1976).

28. 418 U.S. 424 (1977).

29. *Id.* at 432-33.

30. [The Borstal System] now embraces 13 institutions. Some are walled. Others are completely open. Each institution has its own particular specialty.
One provides complete facilities for trade training in metal and woodwork. Another is laid out and run as a summer camp with work and recreational programs which keep the boys out of doors. A third is largely devoted to agriculture and stock raising. One institution graduates skilled workers in the building trades.
While the institutions differ in many respects, the have certain things in common. . . . [An] individual plan based on close acquaintance with individual needs and antecedents and calculated to return the young men to society as social and rehabilitated citizens.

. . . .

. . . Three cardinal principles dominate the system:
(1) flexibility, (2) individualization, and (3) emphasis on the intangibles.
H.R. REP. No. 2979, 81st Cong., 2d Sess. 3, 5 (1950); (1950) U.S. CODE CONG. SERVICE 3983, 3987.

sentencing.[31] In *Durst v. United States*,[32] the United States Supreme Court found that:

> Both the Borstal System and the YCA incorporate three features thought essential to the operation of a successful rehabilitation treatment program: flexibility in choosing among a variety of treatment settings and programs tailored to individual needs; separation of youth offenders from hardened criminals; and careful and flexible control of the duration of commitment and of supervised release.[33]

The YCA is designed to grant the sentencing judge a wider range of sentencing options.[34] "The purpose of the . . . legislation is to provide a *new alternative sentencing* and treatment procedure for [youth offenders]."[35] If, in the opinion of the judge,[36] the youth offender will not be benefited, he can be sentenced as an adult even though he is under 22 years of age.[37] Benefits derived from YCA sentencing include separation from hardened criminals and a youth rehabilitation program.[38] The discretion granted to the trial judge in deciding whether or not to sentence under the YCA is the same discretion that is tradi-

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31. Durst v. United States, 434 U.S. 542, 545 (1978).

32. 434 U.S. 542 (1978).

33. *Id.* at 545-46.

34. The sentencing judge may, under the YCA, impose probation, 18 U.S.C. § 5010(a) (1976); a YCA indeterminate sentence of up to six years (a maximum of four years incarceration and a maximum of two years parole), notwithstanding that the maximum adult sentence for the same offense would be less than six years, *Id.* at § 5010(b) (1976); a YCA indeterminate sentence limited by the appropriate adult sentence when the adult sentence is over six years (a maximum incarceration of two years less than the term of the adult sentence, and a maximum parole of two years), *Id.* at §§ 5010(c), 5010(d); and any other applicable penalty such as fines, restitution, or an adult sentence. *See* Dorszynski v. United States, 418 U.S. 424, 436 (1977). *Accord* Mustain v. Pearson, 592 F.2d 1018 (8th Cir. 1979); United States v. Buechler, 557 F.2d 1002 (3d Cir. 1977); United States v. Oliver, 546 F.2d 1096 (4th Cir. 1976), *cert. denied*, 435 U.S. 914 (1978).

35. Dorszynski v. United States, 418 U.S. 424, 437 (1977) (quoting S. REP. No. 1180, 81st Cong., 1st Sess. 1 (1949) (emphasis is the Court's)).

36. The sentencing judge is given wide discretion to impose sentences under 18 U.S.C. § 5010. *See supra* note 9. Further, the sentencing judge can gather additional information as to whether the youth will benefit from the YCA treatment through the power given to the judge under § 5010(e) to order observation and study of the youth. *See supra* note 9.

37. The sentencing judge must expressly find that the youth offender will receive no benefit from YCA treatment to impose an adult sentence on a youth offender eligible for YCA treatment. 18 U.S.C. § 5010(d) (1976). *See supra* note 9.

38. *See supra* note 11.

tionally granted to a trial judge in imposing any sentence.[39]

In using his discretion, the trial judge need not explicitly state his reasons for finding "no benefit" to the youth offender if the record establishes that the judge had fully considered whether the defendant would receive a benefit from sentencing under the YCA.[40] If, however, as in *United States v. Ingram*,[41] where the trial judge determined that he would not sentence under the YCA because of the crime committed by the youth offender[42] and he did not consider the individual interests of the youth offender, the discretion of the judge may be challenged in the appeals court.[43] The Congressional intent of the YCA was to sentence according to the interests (benefit) of the individual,[44] and that is the sole question to be addressed in assessing whether to sentence under the YCA or to sentence as an adult. If the judge considers the interests of and possible benefits to the individual, the judge need not state specific reasons why he does or does not sentence under the YCA.[45] For instance, a trial judge may find that it is of no benefit to sentence under the YCA if the youth offender has a past history of crime.[46]

In sum, the YCA provides for many benefits that the youth offender can receive from sentencing under its provisions. The purpose of the YCA is to prevent youth offenders from becoming hardened criminals. If the trial judge, using his best discretion, determines that separating the youth offender from hardened criminals and giving him the proper rehabilitative treatment will benefit the youth offender and help protect him from becoming a hardened criminal, then he should be sentenced under the YCA.

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39. Dorszynski v. United States, 418 U.S. 424 (1977).

40. *See* Dorszynski v. United States, 418 U.S. at 425-26.

41. 530 F.2d 602 (4th Cir. 1976).

42. The defendant had been convicted of armed bank robbery and the judge determined that armed bank robbers would derive no benefit from a YCA sentence. *Id.* at 603.

43. *Cf.* United States v. Allen, 510 F.2d 651 (D.C. Cir. 1974).

44. United States v. Ingram, 530 F.2d 602, 604 (4th Cir. 1976).

45. Dorzynski v. United States, 418 U.S. 424 (1977). *See also* United States v. Blankenship, 548 F.2d 1118 (4th Cir. 1976), *cert. denied*, 425 U.S. 978 (1976).

46. United States v. Butler, 481 F.2d 531 (D.C. Cir. 1973). The youth offender not only had a past history of crime, but also showed no remorse for murder. *Id.* at 537.

IV. The Holding of the Court

A. *The Majority and Concurring Opinions*

The United States Supreme Court held that the second sentencing judge had the discretion to find that Robinson would no longer benefit from continuing the YCA treatment for the remainder of his YCA sentence.[47] Therefore, it was solely within the judge's authority to have Robinson removed from the YCA treatment and have him placed with the adult prisoners.[48] In reaching this holding, the Court reiterated the history of the YCA,[49] determining that its purpose is to "[f]irst . . . strongly [endorse] the discretionary power of a judge to choose among available sentencing options [and] [s]econd, . . . [prescribe] certain basic conditions of treatment for YCA offenders."[50]

The Court next looked to the language of the YCA, particularly sections 5010 and 5011, to determine if the Bureau of Prisons has the authority to reclassify a YCA offender and remove him from treatment. The Court noted that prison officials retain a "significant degree of discretionary authority . . ." in dealing with YCA offenders.[51] The discretionary authority of the Bureau of Prisons was deemed to include the power to determine the needs of YCA offenders,[52] to confine and treat them in a manner

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47. Ralston v. Robinson, 454 U.S. at 214-17.

48. *Id.* at 215.

49. *Id.* at 206-10.

50. *Id.* at 206.

51. *Id.* at 211. The Court noted, however, that the YCA allocated "responsibility for determining essential treatment conditions in an unusual way," stating:

> Under traditional sentencing statutes, prison officials exercise almost unlimited discretion in imposing the security and treatment conditions that they believe appropriate. The YCA is different. By determining that the youth offender should be sentenced under the YCA, the trial court in effect decides two essential conditions of confinement: The Bureau of Prisons must comply with both the segregation and treatment requirements of the YCA . . . . The Bureau retains significant discretion in determining the conditions of confinement . . . but its discretion is limited by these requirements.

Id. at 208-09 (citations omitted).

52. 18 U.S.C. § 5014 (1976) provides that:

> The Director shall provide classification centers and agencies. Every committed youth offender shall first be sent to a classification center or agency. The classification center or agency shall make a complete study of each committed youth offender, including a mental and phsycial examination, to ascertain his personal traits, his capabilities, pertinent circumstances of his school, family life, any previ-

which best protects the public,[53] to transfer them to appropriate agencies,[54] to decide the appropriate setting for treatment,[55] and to make recommendations for their release.[56] The Court con-

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ous delinquency or criminal experience, and any mental or physical defect or other factor contributing to his delinquency. In the absence of exceptional circumstance, such study shall be completed within a period of thirty days. The agency shall promptly forward to the Director and to the Commission a report of its findings with respect to the youth offender and its recommendations as to his treatment. As soon as practicable after commitment, the youth offender shall receive a parole interview.

Id.

53. 18 U.S.C § 5015 (1976) provides that:

(a) On receipt of the report and recommendations from the classification agency the Director may-

(1) recommend to the Commission that the committed youth offender be released conditionally under supervision; or

(2) allocate and direct the transfer of the committed youth offender to an agency or institution for treatment; or

(3) order the committed youth offender confined and afforded treatment under such conditions as he believes best designed for the protection of the public.

(b) The Director may transfer at any time a youth offender from one agency or institution to any other agency or institution.

Id.

54. *Id. See supra* note 53.

55. *Id. See supra* note 11.

56. *Id.* §§ 5014, 5015(a)(1), 5016, 5017. *See supra* notes 52, 53 for the text of sections 5014 and 5015 respectively. 18 U.S.C. § 5016 (1976) provides that:

The Director shall cause periodic examinations and reexaminations to be made of all committed youth offenders and shall report to the Commission as to each such offender as the Commission may require. United States probation officers and supervisory agents shall likewise report to the Commission respecting youth offenders under their supervision as the Commission may direct.

Id.

18 U.S.C. § 5017 (1976) provides that:

(a) The Commission may at any time after reasonable notice to the Director release conditionally under supervision a committed youth offender in accordance with the provisions of section 4206 of this title. When, in the judgment of the Director, a committed youth offender shall be released conditionally under supervision he shall so report and recommend to the Commission.

(b) The Commission may discharge a committed youth offender unconditionally at the expiration of one year from the date of conditional release.

(c) A youth offender committed under section 5010(b) of this chapter shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction and shall be discharged unconditionally on or before six years from the date of his conviction.

(d) A youth offender committed under section 5010(c) of this chapter shall be released conditionally under supervision not later than two years before the expiration of the term imposed by the court. He may be discharged unconditionally at the expiration of not less than one year from the date of his conditional release.

cluded that the YCA granted the Bureau of Prisons absolutely no authority to reclassify YCA offenders, despite the otherwise broad discretion granted by the specific provisions of the YCA.[57]

Finally, the Court attempted to harmonize the purpose of the YCA with the express provisions of the Act.[58] The Court did this by using a three step process. First, the Court noted that there is no explicit section of the YCA dealing with the judge's discretion on resentencing.[59] Second, the Court looked at the "no benefit" language in section 5010(d).[60] Third, the Court examined the legislative history and found that Congress did not discuss the specific problem of a youth offender who subsequently committed a crime while serving the original sentence.[61] Unable to draw a conclusion from this, the Court delved further and found that Congress had spoken of the possibility of a YCA sentence failing[62] by providing for longer sentences under section 5010(c).[63] The Court also pointed to section 5023, which

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He shall be discharged unconditionally on or before the expiration of the maximum sentence imposed, computed uninterruptedly from the date of conviction.

(e) Commutation of sentence authorized by any Act of Congress shall not be granted as a matter of right to committed youth offenders but only in accordance with rules prescribed by the Director with the approval of the Commission.

Id.

57. Ralston v. Robinson, 454 U.S. at 211-12. The Court stated:

[T]he statute does not give the Bureau any discretion to modify the *basic* terms of treatment that a judge imposes under §§ 5010 and 5011. When a judge imposes a youth sentence under the YCA, it commits the youth to the custody of the Attorney General 'for treatment and supervision pursuant to this chapter' 18 U.S.C. § 5010(b) and (c). Section 5011 provides two elements of mandatory treatment: first, youths must undergo treatment in an appropriate institution that will 'provide the essential varieties of treatment'; second '[i]nsofar as practical, such institutions and agencies shall be used only for treatment of youth offenders, and such offenders shall be segregated from other offenders, and classes of committed youth offenders shall be segregated according to their needs for treatment.' These two elements of the program are statutorily mandated, and the discretion of the Bureau is limited to the flexible discharge of its responsibilities *within* these two broad constraints.

Id. at 211-12 (footnote omitted) (emphasis in original).

58. *Id.* at 213-15.

59. *Id.* at 213.

60. *Id.* at 213-14. If the youth offender will receive "no benefit" from sentencing under the YCA the courts can look to any other sentence that will apply under the law. *See* 18 U.S.C. § 5010(d) (1976), *supra* note 9.

61. Ralston v. Robinson, 454 U.S. 201, 214 (1981).

62. *Id.* at 214-15.

63. *See supra* notes 9 & 34.

permits the Court to reevaluate the original sentence by reducing it to probation,[64] and section 5021[65] which permits a court to unconditionally release a youth offender on probation, but reserves to the court a right to sentence as an adult if the youth offender commits a crime while on probation.[66]

Justice Powell, in his concurring opinion, would not limit the discretion of the Bureau of Prisons in the fashion the majority did.[67] He reasoned that after the initial YCA sentence, two courts convicted Robinson for two different acts of assaulting a federal officer and both courts had sentenced Robinson to consecutive adult sentences. This evidenced his "incorrigibility and capacity for violence" and as a result, his treatment as an adult was warranted.[68] Justice Powell looked to the broad discretion vested in the Bureau of Prisons[69] and determined that the Bureau of Prisons "had the authority — indeed the duty — to

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64. 18 U.S.C. § 5023(a), (b) (1976) provides that:

(a) Nothing in this chapter shall limit or affect the power of any court to suspend the imposition or execution of any sentence and place a youth offender on probation or be construed in any wise to amend, repeal, or affect the provisions of chapter 231 of this title or the Act of June 25, 1910 (ch.433, 36 Stat. 864), as amended (ch. 1, title 24, of the D. of C. Code), both relative to probation.

(b) Nothing in this chapter shall be construed in any wise to amend, repeal, or affect the provisions of chapter 403 of this title (the Federal Juvenile Delinquency Act), or limit the jurisdiction of the United States courts in the administration or enforcement of that chapter except that the powers as to parole of juvenile delinquents shall be exercised by the Division.

Id.

65. 18 U.S.C. § 5021 (1976) provides that:

(a) Upon the unconditional discharge by the Commission of a committed youth offender before the expiration of the maximum sentence imposed on him, the conviction shall be automatically set aside and the Commission shall issue to the youth offender a certificate to that effect.

(b) Where the youth offender has been placed on probation by the court, the court may thereafter, in its discretion, unconditionally discharge such youth offender from probation prior to expiration of the maximum period of probation theretofore fixed by the court, which discharge shall automatically set aside the conviction, and the court shall issue to the youth offender a certificate to that effect.

Id.

66. The Court reasoned that if this could happen to a youth offender while on probation, it could also be applied to him while he is still confined. Ralston v. Robinson, 454 U.S. at 217.

67. *Id.* at 221 (Powell, J., concurring).

68. *Id.* at 222 (Powell, J., concurring).

69. *See supra* notes 52-56 and accompanying text.

transfer [Robinson] from the Federal Youth Center to a 'facility providing greater security.' "[70]

B. *The Dissent*

The dissent agreed in purpose with the majority that "futile YCA treatment [need not] be continued," and that Congress did not intend YCA treatment to be continued when a youth offender demonstrates that such treatment would be of no benefit to him.[71] The dissent also agreed that the Bureau of Prisons is not authorized to amend the youth offender's classification.[72] The dissent, however, disagreed with the majority's holding that Robinson could be removed from the YCA treatment and be treated as an adult offender when the YCA sentence was not yet expired nor had it been terminated.[73] The dissent argued that there are only two ways the YCA treatment could be converted into an adult sentence: First, if the second sentencing judge imposed a concurrent sentence that would take effect immediately, the YCA treatment would be terminated and the adult sentence followed.[74] Second, if the second sentencing judge imposed a consecutive adult sentence, it is within the discretion of the Bureau of Prisons to "terminate the YCA confinement and allow the consecutive adult sentence to commence."[75] To merely change the treatment of Robinson from the YCA to that of an adult offender, without terminating the original sentence, was inconsistent with the Congressional intent in promulgating the YCA, for less drastic solutions existed to properly treat this problem.[76]

The dissent further found the majority's holding to be violative of the common law rule that once a sentence is imposed and the defendant starts to serve it, that sentence cannot be in-

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70. Ralston v. Robinson, 454 U.S. at 223 (Powell, J., concurring).

71. Ralston v. Robinson, 454 U.S. at 226-27 (Stevens, J., dissenting). Justice Stevens was joined in his dissenting opinion by Justice Brennan and Justice O'Connor.

72. *Id.* at 225-26 n.6 (Stevens, J., dissenting).

73. *Id.* at 227 (Stevens, J., dissenting).

74. *Id.* (Stevens, J., dissenting).

75. *Id.* (citing 18 U.S.C. § 5017 (1976)). *See supra* note 56 for the text of section 5017.

76. *Id.* The dissent, as previously noted, explained two less drastic solutions to this problem. *See supra* text accompanying notes 74, 75.

creased.[77] The dissent reasoned that imposing adult treatment for the remainder of Robinson's unexpired YCA term violated a "well-settled rule prohibiting judges from increasing the severity of a sentence once it has become final."[78] The dissent also noted that the typical YCA sentence is "qualitatively less severe than an adult sentence of equal length,"[79] yet may be longer than the adult sentence for the same infraction.[80] The YCA treatment, stressing rehabilitation with broad authority for prison officials to order early releases of youth offenders,[81] has been referred to as the *quid pro quo* for the longer confinement under different circumstances.[82] According to the dissent, to permit "a second sentencing judge to convert an unexpired YCA sentence into an adult sentence, the *quid pro quo* vanishes."[83] The dissent further noted that following the majority's holding, the defendant "may end up . . . serving [a] lengthier sentence under the adult conditions he paid a price to avoid,"[84] without the benefits ac-

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77. Ralston v. Robinson, 454 U.S. at 223 (Stevens, J., dissenting). The dissent explained the common law rule as follows:

> "As a general practice, the sentence, when imposed by a court of record, is within the power of the court during the session in which it is entered, and may be amended at any time during such session, *provided a punishment already partly suffered be not increased.*" F. WHARTON, CRIMINAL PLEADING AND PRACTICE § 913, at 641 (9th ed. 1889) (emphasis added) (quoted in United States v. Benz, 282 U.S. 304, 307).

Id. at 223 n. 1 (Stevens, J., dissenting).

78. *Id.* at 223 (Stevens, J., dissenting).

79. Ralston v. Robinson, 454 U.S. at 230 (Stevens, J., dissenting) (footnote omitted). As Chief Justice Burger wrote when he was a Circuit Judge of the court of appeals, "confinement [under the YCA] can not be equated with incarceration in an ordinary prison." Carter v. United States, 306 F.2d 283, 285 (D.C. Cir. 1962). *See* United States v. McDonald, 611 F.2d 1291, 1294-95 (9th Cir. 1980); Rogers v. United States, 326 F. 2d 56, 57 (10th Cir. 1963).

80. Ralston v. Robinson, 454 U.S. at 230 (Stevens, J., dissenting). The YCA sentence may be up to six years even though the adult sentence would be less for the same infraction. *See* 18 U.S.C. § 5010(b) (1976), *supra* note 9.

81. *See* 18 U.S.C. § 5010 (1976), *supra* note 9, and 18 U.S.C. § 5017 (1976), *supra* note 56.

82. *See, e.g.*, Carter v. United States, 306 F.2d 283, 285 (D.C. Cir. 1962) (Burger, J.). *Accord* Abernathy v. United States, 418 F.2d 288, 290 (5th Cir. 1969); Johnson v. United States, 374 F.2d 966, 967 (4th Cir. 1967); Brisco v. United States, 368 F.2d 214, 215 (3d Cir. 1966); Kotz v. United States, 353 F.2d 312, 314 (8th Cir. 1965); Eller v. United States, 327 F.2d 639, 639 (9th Cir. 1964); Rogers v. United States, 326 F.2d 56, 56-57 (10th Cir. 1963).

83. Robinson v. Ralston, 454 U.S. at 232 (Stevens, J., dissenting).

84. *Id.* (Stevens, J., dissenting).

cruing to an adult offender, such as "good-time allowances," for the duration of the YCA sentence.[85]

V. Analysis of the Decision

The Court used a back door approach to decide the issue of whether a second sentencing judge can change a youth offender from YCA treatment to adult treatment. Finding no explicit section in the YCA[86] and no specific legislative history,[87] the Court expands the YCA by considering what Congress did not say.

The general purpose of the YCA is to provide sentencing judges broader alternatives in sentencing youth offenders, to rehabilitate them to avoid recidivism, and to keep them separate from adult offenders.[88] Congress intended the sentencing court to find the needs of the youth offender to be of paramount importance[89] in fulfilling this purpose. By removing the person from the YCA treatment the youth offender's needs are no longer being attended to, and thus the intent of Congress is being thwarted.[90] The original sentencing judge made a determination that the youth offender will receive benefit from the YCA treatment and that determination should not be circumvented by a subsequent sentencing judge.

The original YCA sentence is a determination made by the sentencing judge at trial court level to both segregate the youth offender and to give him special treatment.[91] To permit a second sentencing judge, also at the trial court level, to assess a different sentence would be, in effect, to grant the second sentencing judge an appellate review of the first sentencing judge.[92] The

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85. *Id.* (Stevens, J., dissenting). *See* Staudmier v. United States, 496 F.2d 1191, 1192 (10th Cir. 1974); Hale v. United States, 307 F. Supp. 345, 346 (W.D. Okla. 1970); Foote v. United States, 306 F. Supp. 627, 628-29 (D. Nev. 1969).

86. Ralston v. Robinson, 454 U.S. at 213.

87. *Id.* at 214.

88. *See* 18 U.S.C. §§ 5010, 5011 (1976) *supra* notes 9 & 11. *See* Dorszynski v. United States, 418 U.S. 424, 432-33 (1977).

89. *See* Dorszynski v. United States, 418 U.S. 424, 434 (1977), where the Court stated: "[a]n important element of the program was that once a person was committed for treatment under the Act, the execution of sentence was to fit the person, not the crime for which he was convicted." *Id.*

90. Ralston v. Robinson, 454 U.S. at 230 (Stevens, J., dissenting).

91. *See* 18 U.S.C. § 5011 (1976), *supra* note 11.

92. The district courts of the United States generally have no appellate authority.

Court's decision seems to be based not on the statute or on the legislative history of the YCA, but on Robinson's acts subsequent to his YCA sentencing.[93]

The Court considered further YCA treatment for Robinson to be an exercise in futility as a result of his subsequent convictions for serious crimes, and concluded that the Congressional intent of the YCA would not be hampered by placing Robinson in adult treatment.[94] The reasoning behind this stems from the 'no benefit' language in the YCA.[95] The Court noted that in applying a sentence for a crime committed subsequent to a YCA sentence, the judge should determine if the youth offender will derive any further benefit from YCA treatment.[96] In doing this, the second sentencing judge will have to use the same standards as the judge that imposed the original YCA sentence.[97] In deciding this second sentence, however, the judge will have the second conviction to consider in addition to all the factors the original judge had to consider. This would make it more likely that the stiffer adult imprisonment would result from the second conviction.[98]

An exception to this rule is an appeal from the judgment of a magistrate as provided in 18 U.S.C. § 3402 (1976).

93. *See supra* note 12 and accompanying text.

94. The Court states: "In conclusion, we are convinced that Congress did not intend that a person who commits serious crimes while serving a YCA sentence should automatically receive treatment that has proven futile." Ralston v. Robinson, 454 U.S. at 220.

95. *See* 18 U.S.C. § 5010(d) (1976), *supra* note 9.

96. Ralston v. Robinson, 454 U.S. at 218-19.

97. *Id.* at 218.

98. The Court stresses the importance of the subsequent conviction by stating, "[o]f course, the judge *should* consider the fact that the offender has been convicted of another crime." *Id.* (emphasis added). To the Court, the defendant's subsequent actions triggered "the condition that permits appropriate modification of the terms of confinement," *Id.* at 220 n. 14. The Court disposes of any double jeopardy implications due to the modification of Robinson's treatment by tersely stating, "[a]fter all, the imposition of confinement when an offender violates his term of probation has never been considered to raise a serious double jeopardy problem." *Id.* at 220 n. 14 (citing United States v. DiFrancesco, 449 U.S. 117, 137 (1980)). The Court ignored, however, an important distinction in their cursory inspection of the double jeopardy issue. Robinson was convicted of two subsequent crimes, and he was sentenced for each crime. He was not a violator of probation, but rather, in Justice Powell's words, an "incorrigible youth" who was receiving YCA treatment. *Id.* at 222 (Powell, J., concurring). The Court, in their haste to terminate the "futile" special treatment for Robinson, and to impose harsher adult treatment, does not require the YCA term to first expire, or be terminated before placing Robinson in an adult treatment facility. This shortcut, in effect, permits the Court to

This procedure seems unduly harsh on the youth offender. The YCA treatment is not expected to work overnight, and thus provision is made for the treatment to last over a period of several years.[99] Robinson was placed in the program for ten years. His first subsequent conviction occured one year after his original sentence began. The second conviction occured two years after that. From this record one might picture Robinson as incorrigible, as did Justice Powell in his concurrence[100] however,

> [I]t may be that a youth who goes through a period of treatment in a youth correction center would be less susceptible to the influences of hardened criminals during his subsequent confinement than one who was not so treated. This might also be so if one accepts the motivating assumption, which was central to the enactment of the statute, that an offender is more susceptible to corrective treatment and rehabilitation as a 'youth' than in later years.[101]

From this naturally flows the assumption that if the youth offender is better rehabilitated by segregation from hardened criminals, then the converse is also true: to place him with hardened criminals while still a youth will tend to encourage recidivism. Therefore, to remove him from YCA treatment in the third year of a ten year term would not give the youthful offender the opportunity to rehabilitate himself as envisioned by the original sentencing judge in prescribing the YCA sentence. In lieu of reclassifying Robinson as an adult offender, it would have been to his benefit to place him in a maximum security institution for youth offenders.[102] The YCA provides not only

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impose harsher treatment on Robinson while still maintaining the original sentence term of the YCA. As noted by the dissent, to impose adult treatment for the remainder of the YCA term may punish the defendant for a longer time than he would have originally received had the YCA treatment not been imposed. *See supra* notes 84, 85 and accompanying text. The majority viewed this problem as not a valid double jeopardy problem, for Robinson, by his own actions, proved himself deserving of the ensuing harsher treatment. Thus, according to the majority's logic, Robinson is merely getting what he deserves, and any hope for rehabilitation is completely abandoned.

99. *See* 18 U.S.C. § 5010 (1976), *supra* note 9.

100. Ralston v. Robinson, 454 U.S. 201, 222 (1981) (Powell, J., concurring).

101. Robinson v. Ralston, 642 F.2d 1077, 1082 (7th Cir. 1981) (quoting Thompson v. Carlson, 624 F.2d 415, 428 (3rd Cir. 1980) (Adams, J., dissenting) (citing Dorszynski v. United States, 418 U.S. 424, 432-33 (1977)).

102. The Court noted that a "hardened" youth offender may present a serious problem to an institution administering YCA treatment. Ralston v. Robinson, 454 U.S. at 212

that youth offenders be segregated from adult offenders, but that the Bureau of Prisons classify the youth offenders into a need for maximum security, medium security and minimum security.[103] Since the second sentencing judge imposed a consecutive adult sentence on Robinson, the Bureau of Prisons could have placed Robinson in a maximum security institution for youth offenders. Such placement would have preserved the determination of the original sentencing judge that the YCA treatment would benefit Robinson; segregating him from the adult offenders would better comply with the legislative intent of the YCA.[104]

The Court looked to the language of *Dorszynski v. United States*[105] to support its conclusion. That language states that the overriding legislative purpose of the YCA is that "once a person [is] committed for treatment under the Act, the execution of the sentence [is] to fit the person, not the crime."[106] The quoted language, however, dealt with the Bureau of Prisons' determination of how the youth offender was to be treated *within the YCA*, not to remove him from YCA treatment.[107] Robinson was placed

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n.5. The petitioning warden argued that "because some 'hardened' youths may be serving YCA sentences, it is 'impractical' to segregate them from adults." *Id.* The Court completely deferred to the sentencing judge's ruling in this matter, stating, "[t]he sentencing courts, however, determined that these 'hardened' youths would benefit from YCA treatment and consequently should be segregated from adults and integrated with other youth offenders. Petitioner really questions the wisdom, not the practicality, of that determination." *Id.* Thus, the Court appears willing to uphold, as inviolate, the original sentencing judge's determination that YCA treatment will benefit a youth offender yet, where a youth offender commits an additional infraction requiring an additional sentence, the Court defers to the second sentencing judge's decision to terminate the YCA treatment when he sees it of "no benefit" to the youth, despite the original sentencing judge's opinion to the contrary.

103. *See* 18 U.S.C. § 5011 (1976), *supra* note 11.

104. *See supra* notes 25-35 and accompanying text.

105. 418 U.S. 424 (1977).

106. Ralston v. Robinson, 454 U.S. at 220 (quoting Dorszynski v. United States, 418 U.S. 424, 434 (1977)).

107. The Court in *Dorszynski* said:

> An important element of the program was that once a person was committed for treatment under the Act, the execution of sentence was to fit the person, not the crime for which he was convicted. Classification agencies were to be established by the Director of the Bureau of Prisons to receive and study the person committed and to make recommendations to the Director as to the appropriate treatment. 18 U.S.C. §§ 5014, 5015. Further, the range of treatment available was made broad to provide maximum flexibility. The Director was authorized both to

under YCA treatment for the act of murder in the second degree. He was taken off the treatment for the act of assaulting a federal officer. His YCA treatment was terminated in a different proceeding on an entirely different matter than for which it was imposed. It had nothing to do with the original murder, and the subsequent sentence should have nothing to do with the murder sentence.

The YCA has only one provision for modifying a sentence, and that provision serves only to reduce a previously imposed sentence.[108] Such reduction of a sentence pursuant to this provision would be in the form of releasing the youth conditionally on probation.[109] The Court reasoned that if the youth offender commits a crime while on probation, he could be sentenced as an adult for the crime he commits.[110] In an event such as this, however, the YCA treatment sentence would end when the subsequent adult sentence is imposed.[111]

The Court never addressed Robinson's allegations that he was never segregated from non-YCA offenders and that he never received YCA treatment.[112] If this is true, and the Court noted that the multiple transfers of Robinson "lend credence" to this allegation,[113] then Robinson could not have received the benefit the original sentencing judge meant him to have. Under these circumstances he was not given the opportunity to rehabilitate himself in the fashion Congress intended in promulgating the YCA. The Court did not address this issue because of its disposition in the case,[114] but it should have been examined to determine if the program is following the true intent of Congress.

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adapt numerous public facilities, and to contract with public or private agencies, in order to provide institutional treatment which the Director could vary according to the committed person's progress or lack of it. 18 U.S.C. §§ 5011, 5015. An integral part of the treatment program was the segregation of committed persons, insofar as practicable, so as to place them with those similarly committed, to avoid the influence of association with the more hardened inmates serving traditional criminal sentences. 18 U.S.C. § 5011.

Dorszynski v. United States, 418 U.S. 424, 434 (1977).

108. *See* 18 U.S.C. §§ 5021, 5023 (1976), *supra* notes 65 and 64.

109. Ralston v. Robinson, 454 U.S. at 215 n.7.

110. *See supra* note 66 and accompanying text.

111. Ralston v. Robinson, 454 U.S. at 215-16.

112. *Id.* at 205 n.2. *See supra* note 17.

113. *Id.*

114. *Id.*

The Court should have permitted Robinson's YCA treatment to continue in accordance with his original sentence. After the term of the YCA sentence he would be reclassified an adult offender and would be required to serve the two consecutive adult sentences subsequently imposed on him for his convictions while serving as a youth offender under the YCA. Nowhere in the language of the YCA is a judge given the authority to reclassify a youth offender, and there is no legislative history evidencing this reclassification to be within the intent of Congress. As Judge Pell wrote in his concurring opinion in this case in the court of appeals: "[w]hile I see, on this record, no indication to think that either Robinson or society will benefit by continuing the YCA treatment, *Congress, by the statute applicable in this case, has mandated* [its] *continuance.*"[115]

VI. Conclusion

The Court determined that continued YCA treatment for Robinson would be "futile" for Robinson had demonstrated that the treatment had little rehabilitative effect. Starting from this premise, the Court hypothesized that Congress never intended such treatment to be an exercise in futility, and thus the Court modified Robinson's treatment to that of an adult, notwithstanding the absence of statutory authority or legislative intent to do so. Thus, the Court deemed Robinson to be an incorrigible youth, and punished him as an adult for the crimes he committed, both for the remainder of the term of his YCA sentence and for the subsequent convictions imposed upon him while in confinement under the YCA. As the dissent properly noted, such modification can lead to longer punishment than if the adult sentence was originally imposed. The impact of this decision may be limited to modifications of sentences under the YCA, but with the Court so willing to interpret what Congress did not say and so eager to achieve a certain result, one must wonder to what limits the Court will go in future sentencing decisions.

Robert J. Camera

115. Robinson v. Ralston, 642 F.2d at 1083 (Pell, J., concurring) (emphasis added).