

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 12-10562

D.C. Docket Nos. 1:11-cv-00102-JRH-WLB; 1:09-cr-00171-JRH-WLB-1

JEREMY ALFONZIE JONES,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

Appeal from the United States District Court
for the Southern District of Georgia

(November 13, 2014)

Before TJOFLAT and WILLIAM PRYOR, Circuit Judges, and SCOLA,* District Judge.

PER CURIAM:

On October 14, 2014, the United States Department of Justice issued a memorandum to all federal prosecutors regarding the enforcement of appeal waivers in which defendants waive claims of ineffective assistance of counsel on direct appeal and/or collateral attack. See Memorandum from James M. Cole, Deputy Attorney General, to All Federal Prosecutors (Oct. 14, 2014), available at http://pdfserver.amlaw.com/nlj/DOJ_Ineffective_Assistance_Counsel.pdf (“For cases in which a defendant’s ineffective assistance claim would be barred by a previously executed waiver, prosecutors should decline to enforce the waiver when defense counsel rendered ineffective assistance resulting in prejudice or when the defendant’s ineffective assistance claim raises a serious debatable issue that a court should resolve.”). In light of this new policy, and in response to our directive asking the United States Attorney to address its impact on the instant case, the Government has withdrawn its reliance on Jeremey Jones’s collateral-attack waiver.

* Honorable Robert N. Scola, United States District Court Judge for the Southern District of Florida, sitting by designation.

As a result, the judgment of the District Court is VACATED and the case is REMANDED to the District Court with the instruction to afford Jones an evidentiary hearing on his ineffective-assistance-of-counsel claim.

VACATED and REMANDED, with instruction.