

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4853

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

NATHANIEL JONES, III,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. Frank W. Bullock, Jr., Senior District Judge. (1:02-cr-00155-2)

Submitted: January 8, 2007

Decided: February 7, 2007

Before GREGORY and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Nathaniel Jones, III, Appellant Pro Se. Paul Alexander Weinman, Assistant United States Attorney, Winston-Salem, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Nathaniel Jones, III, appeals the amended judgment of conviction. This court remanded Jones' sentence for the purpose of having the court determine the sentencing enhancement for obstruction of justice under the rules announced in United States v. Booker, 543 U.S. 220 (2005). At resentencing, the court found the enhancement was supported by a preponderance of the evidence. The court further understood the advisory nature of the guidelines. Prior to imposing sentence, the court considered the statutory sentencing factors under 18 U.S.C. § 3553(a) (2000). On appeal, Jones, who is proceeding pro se, challenges the jurisdiction of the court to convict him for bank robbery.

Issues that could have been raised during the first appeal but were not are generally not reviewable. See Omni Outdoor Advertising v. Columbia Outdoor Advertising, 974 F.2d 502, 505-06 (4th Cir. 1992) (inappropriate to consider argument on second appeal following remand when it could have been made in first appeal); United States v. Fiallo-Jacome, 874 F.2d 1479 (11th Cir. 1989) (same principle applies in criminal cases); Northwestern Ind. Tel. Co. v. F.C.C., 872 F.2d 465, 470 (D.C. Cir. 1989) (omission of even constitutional issues from first appeal waives consideration in later appeal). In any event, Jones' claim is without any merit. See Pigford v. United States, 518 F.2d 831, 833 (4th Cir. 1975).

Because Jones does not challenge the district court's conduct at resentencing in reviewing the enhancement for obstruction of justice, we find the claim abandoned. Accordingly, we affirm the sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED