

### United States of America v. Carlington Cruickshank 837 F.3d 1182 United States Court of Appeals for the Eleventh Circuit (Decided September 20, 2016)

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**THE MARITIME DRUG LAW ENFORCEMENT ACT IS NOT  
UNCONSTITUTIONAL AND IS IN ACCORDANCE WITH THE FELONIES  
CLAUSE**

*United States of America v. Carlington Cruickshank*  
837 F.3d 1182

United States Court of Appeals for the Eleventh Circuit  
(Decided September 20, 2016)

**The Eleventh circuit rejected Cruickshank’s claims that the MDLEA was unconstitutional; the United States State Department certification of jurisdiction was upheld and did not conflict with the Due Process Clause or Confrontation Clause; the element of mens rea was sufficient for the defendant’s conviction; and the lower court erred by not providing minor-role sentencing reduction to the defendant.**

On February 11, 2014, in the Caribbean Sea within international waters, the United States Coast Guard seized a vessel carrying 171 kilograms of cocaine.<sup>1</sup> On board was the defendant Carlton Cruickshank.<sup>2</sup> The United States of America charged the defendant with conspiracy to possess with intent to distribute cocaine while aboard a vessel and aiding and abetting possession with intent to distribute in violation of the Maritime Drug Law Enforcement Act (“MDLEA”).<sup>3</sup> The defendant claims that he played no major role in the planning or logistics of the crime.<sup>4</sup>

The defendant appealed alleging that MDLEA is unconstitutional; that the court erred in denying his motion for judgment of acquittal from a lack of evidence proving mens rea; that establishing jurisdiction through a State Department certification was erroneous, and that the court should have granted him a minor role reduction as per U.S.S.G. §3B1.2(b).<sup>5</sup>

The Felonies Clause of the Constitution states that the power “[t]o define and punish Piracies and Felonies committed on the High Seas” lies with Congress.<sup>6</sup> Per the MDLEA, “a vessel without nationality” is “subject to the jurisdiction of the United States.”<sup>7</sup> The MDLEA definition of a stateless vessel includes “a vessel aboard which the master individual makes a claim of registry that is denied by the nation whose registry is claimed.”<sup>8</sup> The courts have “upheld extraterritorial convictions under . . . drug trafficking laws as an exercise of power under the Felonies Clause . . . because universal and protective principles support its extraterritorial reach.”<sup>9</sup> Accordingly, the Court found that the MDLEA is authorized and is in accordance with the constitution.

The nexus between the certification of the jurisdiction and the confrontation clause is attenuated. Per the Eleventh Circuit Court: “A United States Department of State certification of jurisdiction under the MDLEA does not implicate the Confrontation Clause because it does not affect the guilt or innocence of a defendant.”<sup>10</sup> The Court also held that to not decide

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<sup>1</sup> *United States v. Cruickshank*, 837 F.3d 1182, 1186-87 (11th Cir. 2016).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* (citing U.S.S.G. §3B1.2(b)).

<sup>6</sup> *Id.* (citing USCS Const. Art. I, § 8, Cl 10).

<sup>7</sup> *Id.* (quoting 46 U.S.C. § 70502(c)(1)(A), (d)(1)(A)).

<sup>8</sup> *Id.* (quoting *United States v. Campbell*, 743 F.3d 802, 809 (11th Cir. 2014)).

<sup>9</sup> *Id.* (quoting *Campbell*, 743 F.3d at 809-10).

<sup>10</sup> *Id.* (quoting *Campbell*, 743 F.3d at 809).

a case with a jury trial and to not require a jurisdictional requirement as an element of the offense does not violate the Due Process Clause nor the Sixth Amendment.<sup>11</sup>

To establish mens rea, evidence must be sufficient so that a reasonable trier of fact could have found that it established guilt beyond a reasonable doubt.<sup>12</sup> The court noted “[i]n rebutting the government’s evidence, a defendant must do more than put forth a reasonable hypothesis of innocence, because the issue is whether a reasonable jury could have convicted, not whether a conviction was the only reasonable result.”<sup>13</sup> Here, the court found the defendant’s conviction reasonable because of Cruickshank’s presence on the vessel.<sup>14</sup>

Minor role reduction may “provide a two-level decrease to a base offense level if a defendant was a minor participant in the criminal activity.”<sup>15</sup> “A minor participant is ‘who is less culpable than most other participants in the criminal activity, but whose role could not be described as minimal.’”<sup>16</sup>

The court takes many factors into account to determine if a minor role reduction is applicable through a preponderance of the evidence.<sup>17</sup> They include but are not limited to: the defendant’s knowledge and participation in planning and carrying out the crime, how much decision-making authority the defendant held, and how much the defendant would ultimately benefit if the crime had been successful.<sup>18</sup>

Here, the defendant did not load the drugs into the vessel, take part in planning or logistics of the crime, and had no authority over the quantity of narcotics being transported.<sup>19</sup> The Court held that the inferior court’s conclusion to deny the minor role reduction was unreasonable and did not consider all the facts.<sup>20</sup> The inferior court mistook the quantity of narcotics seized as the sole basis to determine if minor role reduction was appropriate.<sup>21</sup> Accordingly, the defendants’ appeal was upheld by the Eleventh Circuit Court because the inferior court clearly erred in denying him a minor role reduction.

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.* (citing *United States v. Beckles*, 565 F.3d 832, 840 (11th Cir. 2009)).

<sup>13</sup> *Id.* (quoting *Beckles*, 565 F.3d at 840-41).

<sup>14</sup> *Id.* at 1188.

<sup>15</sup> *Id.* (citing U.S.S.G §3B1.2(b)).

<sup>16</sup> *Id.* (citing U.S.S.G §3B1.2(b)).

<sup>17</sup> *Id.* (citing *Bernal-Benitez*, 594 F.3d at 1320).

<sup>18</sup> *Id.* at 1193-94. (citing *United States v. De Varon*, 175 F.3d 930, 942-43) (11th Cir. 1999)).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 1195.