

FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13262

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUNIOR XAVIER CHIRINO-LOVERA,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:22-cr-20517-CMA-1

No. 23-13307

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

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JOSE GREGORIO PALENCIA,

a.k.a. Jose Gregorio Valencia,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:22-cr-20517-CMA-2

No. 23-13333

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALEJANDRO GUERRERO,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:22-cr-20517-CMA-3

Before ROSENBAUM, LAGOA, and MARCUS, Circuit Judges.

MARCUS, Circuit Judge:

This case is about drug trafficking on the high seas, a familiar subject for our Court. In October 2022, the United States Coast

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Guard spotted defendants Junior Xavier Chirino-Lovera, Jose Gregorio Palencia, and Alejandro Guerrero in a go-fast vessel about 128 miles off the coast of Colombia. When the defendants realized they had been detected, they fled, dumping bales into the water as they were chased by the Coast Guard. Those bales contained 623 kilograms of cocaine. The defendants were arrested and charged with various drug-related crimes.

In the district court, the defendants fought the case on jurisdictional grounds. They argued that the interdicting Coast Guard officers failed to establish that their vessel was “without nationality,” leaving them outside the reach of federal law. Specifically, they claimed that the Coast Guard officers who boarded their go-fast boat did not ask them the questions necessary to prove U.S. jurisdiction over their vessel.

The district court held a hearing on this claim, where members of the interdiction team testified. Most significantly, Coast Guard Officer Erik Balboa -- who translated the encounter -- testified that he individually asked each defendant if he was claiming nationality for the vessel; none of the defendants did so. The district court credited Balboa’s testimony about the nationality question and concluded that the question and the defendants’ responses were sufficient to establish jurisdiction, but added that Balboa had testified falsely about a different matter (whether he asked “are you the person in charge?”).

The defendants claim that the district court erred in its jurisdictional determination. Each offers somewhat different arguments, but the primary thrust of their claims is the same: the court could not have credited Balboa’s testimony that he individually asked the defendants if they claimed nationality for the vessel, because the court believed he lied about asking a separate question. They also assert that (1) the law creating U.S. jurisdiction over their vessel is unconstitutional as applied, and (2) the district court improperly imposed a guidelines enhancement for “recklessly creat[ing] a substantial risk of death or serious bodily injury” as they fled the Coast Guard.

After careful review and with the benefit of oral argument, we conclude these claims are without merit. We affirm.

I.

A.

The parties stipulated to the non-jurisdictional facts as part of the defendants’ guilty pleas. They agreed that on October 18, 2022, Coast Guard Aircraft detected the defendants’ go-fast vessel about 128 nautical miles off the coast of Colombia, albeit within the nation’s Exclusive Economic Zone. Suspecting drug smuggling on the high seas, the Coast Guard diverted a cutter to interdict the vessel. The cutter, in turn, deployed a helicopter and two small “Over the Horizon” vessels equipped with boarding teams.

When the defendants realized they had been spotted by the Coast Guard, they fled. Two of the defendants were seen dumping bales overboard the vessel, as the third defendant drove the vessel

away. The pursuing helicopter fired warning shots, to no effect -- it then deployed “disabling fire,” bringing the boat to a halt. Before the Over the Horizon vessels could reach the drug boat, the defendants also tossed electronic equipment overboard. The Coast Guard ultimately fished out of the water 19 bales that the defendants had discarded. They contained 623 kilograms of cocaine.

After the Coast Guard stopped the defendants’ boat, a team of officers boarded the vessel. The team included Officers Jay Bermudez, Erik Balboa, and Layne Kime. Balboa, a fluent Spanish speaker, was tasked with asking the questions necessary to establish U.S. jurisdiction. What, exactly, he asked the defendants is subject to dispute, as we’ll describe. After the exchange, the boarding team detained the defendants. The Coast Guard sank the defendants’ vessel to avoid leaving a hazard for other mariners.

B.

On November 1, 2022, a federal grand jury sitting in the Southern District of Florida returned an indictment against the defendants. It charged each defendant in two counts: first, with conspiracy to possess on the high seas more than five kilograms of cocaine with intent to distribute, in violation of 46 U.S.C. § 70506(b); and second, with possession on the high seas of more than five kilograms of cocaine with intent to distribute, in violation of 46 U.S.C. § 70503(a)(1). Both charges fell under the Maritime Drug Law Enforcement Act (“MDLEA”), 46 U.S.C. § 70501 *et seq.*

Chirino-Lovera, in a motion adopted by his co-defendants, asked the district court to dismiss the indictment because, among

other things, the MDLEA could not constitutionally proscribe conduct that occurs in the Exclusive Economic Zone of another country. The district court denied the motion without a hearing.

Next, Gregorio Palencia moved the district court to dismiss for lack of jurisdiction, a motion that was also adopted by the other defendants. He argued that the government had failed to make a preliminary showing that the defendants' vessel was subject to the jurisdiction of the United States. He requested an evidentiary hearing. The government opposed the motion, offering reports from the interdicting Coast Guard officers as proof of jurisdiction. It also submitted a contemporaneous "Victor Report" from the interdiction, which listed the vessel as having no "master" or "person in charge" and reported the vessel's nationality as "none." Notwithstanding this evidence, the district court granted the defendants an evidentiary hearing.

At the hearing, Petty Officer Balboa testified. On direct examination, he explained that he acted as the interpreter during the interdiction, and that he read questions to the defendants off the Coast Guard's "Right of Visit" form.¹ He recalled asking each person on the vessel "[a]re you the captain?" and recounted that each

¹ The Right of Visit form, which was received in evidence, reads in English in relevant part this way:

Ask all suspects as a group, "Who is the master or person in charge (PIC) of the vessel?" . . . If no one claim[s] to be the master/PIC, . . . [a]sk each person individually, "Are you the master or PIC?" . . . If no master or PIC is identified . . . [a]sk

of the defendants said “no.” He also testified that he asked each defendant “if they claim[ed] any nationality of the boat” and “[d]o they claim this boat, any nationality does it come from.” He said that none of the defendants made any claim of nationality for the vessel, although each provided their personal nationalities (Venezuelan for two of them and Dominican for the third). His written report, which was also received in evidence, corroborated that Balboa asked each defendant whether he claimed any nationality for the boat. It read this way: “I asked each individual if they wanted to make a claim of nationality for the vessel [and] each of them said no.”

There were, however, two moments during the direct testimony in which Balboa’s memory appeared to falter. First, Balboa claimed to have asked the defendants “[w]ho is the captain? . . . [w]ho is the boss of this boat? . . . [w]ho is in charge?” and to have received the response “no.” After the district court pointed out that the answer “no” was not responsive to Balboa’s questions, he revised his testimony, claiming to have instead asked each defendant “[a]re you the captain?”

Second, Balboa said that, while translating, he had to replace a mistranslated word on the Right of Visit form. In his recollection,

each person individually, “Do you claim nationality for the vessel? Does this vessel have a nationality?”

The Spanish version of the script, however, used the word “capitán” rather than the term “master.”

the form incorrectly used a Spanish word for teacher -- “maestro” -- as the translation of the English word “master.” That recollection turned out to be mistaken. The government later produced (through a different witness) the Right of Visit form, which did not include the claimed mistranslation -- instead, it used, in the Spanish version of the form, the word “capitán.”

On cross-examination, Balboa reiterated that he asked each defendant “[a]re you the captain?” and “[a]re you the boss?”, although he admitted his memory was “hazy” as to some details. On redirect examination, he reiterated that he had asked each defendant individually if he wished to make a claim of nationality for the vessel.

Chief Petty Officer Bermudez also testified at the hearing. Most significantly, he corroborated Balboa’s testimony that Balboa used the Right of Visit form to guide his questioning; that Balboa used the word “capitán” during the interdiction; and that Balboa asked each defendant about the vessel’s nationality (although he acknowledged that he would not have understood “the exact question” that Balboa asked). However, Bermudez contradicted Balboa’s recollection of how the Right of Visit form translated “master,” and he testified that the word “jefe” -- which Balboa used to ask the question “[a]re you the boss?” -- did not appear on the Right of Visit form.

After the testimony concluded, the defendants argued that Balboa’s testimony was unbelievable; Guerrero also claimed that

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Chirino-Lovera had in fact made a nationality claim simply by identifying Venezuela as the place from whence the vessel had come. Each defendant added that the government needed to prove jurisdiction beyond a reasonable doubt.

The district court credited Balboa's testimony on the critical jurisdictional matter, finding that Balboa asked each defendant individually whether he was making a claim of nationality, and each said no. However, the district court concluded that Balboa had lied about whether he asked each defendant individually if he was the person in charge of the vessel. Based on these findings, the court determined that the government had established the necessary jurisdictional requirement, citing this Court's ruling in *United States v. Cabezas-Montano*, 949 F.3d 567, 589 n.14 (11th Cir. 2020). The district court did not clarify whether it had made its findings by a preponderance of the evidence or on proof beyond a reasonable doubt.

Thereafter, the defendants entered an agreement to plead guilty to Count One of the indictment (the conspiracy charge). All of the defendants stipulated to the basic facts of the offense, although none of them conceded jurisdiction.

At sentencing, the government sought (among other things) a two-level guidelines enhancement for each defendant for recklessly creating a substantial risk of death or serious injury while fleeing from a law enforcement officer, pursuant to U.S.S.G. § 3C1.2. It argued that the defendants endangered Coast Guard officers in two ways during their flight: first, by jettisoning bales of cocaine

into the water as they fled, they created a palpable hazard for the pursuing Coast Guard vessels; and second, by forcing the pursuing Coast Guard helicopter to deploy disabling fire, they generated a real risk from flying shrapnel. The government also explained that all three defendants should be enhanced two levels, because each was a direct participant in some aspect of the flight. The district court overruled the defendants' objection to the enhancement, explaining (during the sentencing of Chirino-Lovera) that for "[a]ll the reasons articulated by the Government -- I agree with probation's assessment of this obstruction of justice, reckless endangerment enhancement[.]"²

The district court ultimately determined that the sentencing guidelines yielded a range of 135-168 months in prison for all three defendants. However, it sentenced each defendant to a 96-month

² During the sentencing of Gregorio Palencia, the district court explained that "for the reasons I've articulated with regard to Mr. Chirino-Lovera . . . I have overruled the objections to role and the objection to obstruction of justice, endangerment that were applied in the presentence investigation report." During Guerrero's sentencing, the district court overruled his objection to the Section 3C1.2 enhancement implicitly. The trial court explained that, during the sentencings of Gregorio Palencia and Chirino-Lovera, it had "denied the objection or overruled the objection to the two-level enhancement under 3C1.2, finding that the Defendants did create a substantial risk of serious bodily injury to others in the course of fleeing from law enforcement." The court then applied the same guidelines range to him as it had to the other defendants.

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term of incarceration, a significant downward variance. Each defendant was also sentenced to a two-year period of supervised release and a special assessment in the amount of \$100.

Each defendant timely appealed. We consolidated each of these appeals.

II.

A.

Whether the government has carried its burden of establishing subject matter jurisdiction under the MDLEA is a question of law, reviewed *de novo*. *United States v. Iguaran*, 821 F.3d 1335, 1336 (11th Cir. 2016) (per curiam). However, we “review for clear error the district court’s factfindings relevant to jurisdiction.” *Id.*

Clear error is a “highly deferential standard of review,” *Eggers v. Alabama*, 876 F.3d 1086, 1094 (11th Cir. 2017) (citation modified), particularly when it comes to credibility determinations. We have long said that we will only reverse a district court’s credibility finding if that finding “is contrary to the laws of nature, or is so inconsistent or improbable on its face that no reasonable factfinder could accept it.” *United States v. Gruezo*, 66 F.4th 1284, 1290 (11th Cir. 2023) (per curiam) (quoting *United States v. Cavallo*, 790 F.3d 1202, 1227 (11th Cir. 2015)); see also *United States v. Robertson*, 736 F.3d 1317, 1325 (11th Cir. 2013); *United States v. Ramirez-Chilel*, 289 F.3d 744, 749 (11th Cir. 2002). More generally, when applying clear error review, “a [factual] finding that is plausible in light of the full record -- even if another is equally or more so -- must govern.” *Grayson v. Comm’r, Ala. Dep’t of Corr.*, 121 F.4th 894, 896 (11th Cir.

2024) (citation modified). We will not disturb a district court’s findings “unless we are left with a definite and firm conviction that a mistake has been committed.” *United States v. Clarke*, 562 F.3d 1158, 1165 (11th Cir. 2009) (quoting *United States v. Crawford*, 407 F.3d 1174, 1177 (11th Cir. 2005)).

We review the constitutionality of a statute -- in this case, the MDLEA -- *de novo*. *United States v. Alfonso*, 104 F.4th 815, 820 (11th Cir. 2024). As for sentencing challenges, we also review *de novo* (1) any legal interpretation of the sentencing guidelines, and (2) the application of the guidelines to the facts. *United States v. Martinez*, 156 F.4th 1185, 1210 (11th Cir. 2025). However, we review a district court’s factual findings only for clear error. *Id.*

B.

Congress has extended the jurisdiction of the United States to any vessel “without nationality” on the high seas. 46 U.S.C. § 70502(c)(1)(A). Title 46 of the United States Code, Section 70502(d)(1) defines “vessel without nationality.” At the time of the defendants’ arrest,³ it read this way:

(1) In general. -- In this chapter, the term ‘vessel without nationality’ includes --

³ Shortly after the defendants’ indictment, Congress amended Section 70502(d) to add a fourth definition of “vessel without nationality.” *See* 46 U.S.C. § 70502(d)(1)(D). The new definition of “vessel without nationality” is not at issue on appeal.

(A) a vessel aboard which the master or individual in charge makes a claim of registry that is denied by the nation whose registry is claimed;

(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

Only Section 70502(d)(1)(B) is at issue in this case.

As the text of Section 70502(d)(1)(B) establishes, either the “master” or the “individual in charge” may make a claim of nationality for a vessel. Thus, the Coast Guard’s boarding script requires its officers to ask a vessel’s occupants -- collectively and individually -- to identify the “master” or “person in charge” of a vessel. If the occupants identify the master or individual in charge, the Coast Guard officers will ask that person “do you claim nationality for the vessel?” and “does this vessel have nationality?” Notably, if the occupants do not identify a master or individual in charge, then the officers must ask the same two nationality questions of each occupant individually.

It is wise for Coast Guard officers to follow the script, because doing so can avoid unnecessary jurisdictional disputes. However, the government may still prove jurisdiction despite deviations from the prescribed questions. Thus, in *Cabezas-Montano*, we affirmed a district court’s finding of jurisdiction even though the interdicting Coast Guard officers had failed to ask crew members who was the individual in charge. 949 F.3d at 589 & n.14. In that case, the officers had still “ask[ed] all defendants if anyone wished to make a claim of nationality for the vessel.” *Id.* at 589 n.14. We reasoned that “any individual who possessed the authority to make a claim of registry or nationality for the vessel was given the opportunity to do so at the request of a duly authorized officer,” and so the requirements of Section 70502(d)(1)(B) were satisfied. *Id.*

C.

The level of proof the government must provide to establish jurisdiction is an open question in this Circuit. We initially settled the question in 1996, when we held in *United States v. Medina*, 90 F.3d 459 (11th Cir. 1996), that jurisdiction was a substantive element of MDLEA offenses that must be proven to the satisfaction of a jury beyond a reasonable doubt. *Id.* at 463–64; *see also United States v. Tinoco*, 304 F.3d 1088, 1114 n.25 (11th Cir. 2002) (recounting this history). But Congress significantly amended the MDLEA in 1996, adding 46 U.S.C. § 70504(a), which specifically addressed the question of jurisdiction. *Tinoco*, 304 F.3d at 1102 (citing the Coast Guard Authorization Act of 1996, Pub. L. 104–324, § 1138(a)(5), 110 Stat. 3989). Section 70504(a), entitled “Jurisdiction and Venue,” reads this way:

Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

Section 70504(a) plainly abrogates *Medina* to the extent it found jurisdiction to be an element of an MDLEA offense. But we have yet to address whether it affects the standard of proof the government must provide. *Tinoco*, 304 F.3d at 1114 n.25 (observing that the standard of proof was an open question); *see also United States v. Lopez*, 819 F. App'x 821, 825 n.2 (11th Cir. 2020) (per curiam) (noting that the standard of proof remained an open question); *United States v. Guerro*, 789 F. App'x 742, 747 n.2 (11th Cir. 2019) (same).

The defendants claim that the government still must prove jurisdiction beyond a reasonable doubt, albeit to a judge rather than a jury. The government maintains that Section 70504(a) reduced the standard to a preponderance of the evidence. Because the district court did not specify the standard it applied, we think it is necessary to answer this question before addressing the merits.

We now hold that the government must prove jurisdiction under the MDLEA by a preponderance of the evidence, and in doing so, we join the First Circuit Court of Appeals. *See United States v. Matos-Luchi*, 627 F.3d 1, 5 (1st Cir. 2010). The text of Section 70504(a) counsels this conclusion. The statute explains that “[j]urisdictional issues arising under this chapter are *preliminary questions*

of law to be determined solely by the trial judge.” 46 U.S.C. § 70504(a) (emphasis added). The use of the phrase “preliminary questions” is significant. When Congress enacted Section 70504(a), “preliminary questions” were established by a preponderance of the evidence. Federal Rule of Evidence 104, entitled “Preliminary Questions,” provided that “[t]he court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible.” Fed. R. Evid. 104(a). The Supreme Court had already explained that when it comes to these sorts of “preliminary factual questions,” it “traditionally required . . . a preponderance of proof.” *Bourjaily v. United States*, 483 U.S. 171, 175 (1987); see also *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 592 n.10 (1993) (explaining that the “preliminary questions” mentioned in Rule 104 should be decided by a preponderance of the evidence). So, when Congress enacted Section 70504(a) in 1996, the link between preliminary questions and preponderance proof was well-established.

It is also notable that Section 70504(a) delegates the jurisdictional determination to the trial judge, rather than to the jury. When judges make fact-based determinations, the standard of proof is typically preponderance of the evidence. See *Matos-Luchi*, 627 F.3d at 5 (citing, by way of example, the consensual nature of a search, the existence of a privilege, the voluntariness of a confession, the admissibility of evidence, competency to stand trial, and the propriety of venue); see also *United States v. Pope*, 461 F.3d 1331, 1335 (11th Cir. 2006) (explaining that district courts find sentencing facts by a preponderance of the evidence); *Bourjaily*, 483 U.S. at

175–76 (citing, among other things, the waiver of *Miranda* rights and inevitable discovery as examples of judge-decided issues requiring preponderance proof). Although there are some exceptions to this basic rule, they are limited and usually involve ultimate questions or collateral matters. See *Matos-Luchi*, 627 F.3d at 14–15 & n.18 (Lipez, J., dissenting) (listing petty offenses, juvenile delinquency proceedings, and the forced administration of antipsychotic medication as matters to be decided by a judge using a higher standard of proof). In this statute, Congress combined judicial decision-making with the “preliminary question” language, ensuring that Section 70504(a) paralleled Rule 104 in both language and procedure.

Moreover, reading Section 70504(a) as only requiring preponderance proof is consistent with our precedents, particularly our ruling in *United States v. Ibarguen-Mosquera*, 634 F.3d 1370 (11th Cir. 2011). *Ibarguen-Mosquera* concerned the Drug Trafficking Vessel Interdiction Act of 2008 (“DTVIA”), 18 U.S.C. § 2285. The DTVIA prohibits

[O]perat[ing] ... or embark[ing] in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country’s territorial sea with an adjacent country, with the intent to evade detection[.]

18 U.S.C. § 2285(a). This statute incorporates Section 70504(a) from the MDLEA. See *Ibarguen-Mosquera*, 634 F.3d at 1384 (citing

18 U.S.C. § 2285(g)). Relying on Section 70504(a), a panel of our Court held that the jurisdictional element of Section 2285(a) -- the requirement that the vessel have “navigat[ed] . . . through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country’s territorial sea with an adjacent country” -- need not be proven beyond a reasonable doubt. *Id.* at 1384.

Ibarguen-Mosquera is itself consistent with binding case law drawn from the former Fifth Circuit. Thus, for example, in *United States v. Bowers*, 660 F.2d 527 (5th Cir. Unit B Sept. 1981) (per curiam),⁴ the defendant claimed that the district court lacked jurisdiction over his case (charging him with cruelty to a child, in violation of 18 U.S.C. § 13), because the government had failed to prove that the offense occurred in a federal enclave. *Id.* at 528, 531. The Court disagreed, explaining that “territorial jurisdiction or venue are not to be treated as essential elements in the sense that they must be established by proof beyond a reasonable doubt.” *Id.* at 531 (citation modified). Instead, the Court applied a preponderance standard and determined that the evidence was sufficient for the jury to conclude that the crime occurred within the federal enclave. *Id.* *Bowers*, in turn, relied on *United States v. White*, 611 F.2d 531 (5th Cir. 1980), which explained that “[i]f the Government shows by a preponderance of the evidence that the crime was committed in

⁴ We adopted as binding precedent all Fifth Circuit decisions handed down before October 1, 1981, and all Unit B decisions from any date. *Stein v. Reynolds Secs., Inc.*, 667 F.2d 33, 34 (11th Cir. 1982).

the trial district, both *territorial jurisdiction* and proper venue are established.” *Id.* at 535 (emphasis added).

The First Circuit is the only other circuit to have addressed this issue. *Matos-Luchi*, 627 F.3d at 5. Like us, the First Circuit thought it essential to the resolution of the question that the change found in Section 70504(a) reposes in the court (not the jury) the decision-making authority, and it cited to a wide variety of pre-trial judicial determinations that require proof only by a preponderance of the evidence. *See id.* The First Circuit also found it instructive that jurisdiction is characterized as a “preliminary issue” and “not an element of the offense,” observing by way of contrast that “jury fact-finding and the beyond-reasonable-doubt standard generally go hand in hand.” *Id.* at 5 & n.5.

Insofar as the defendants say that we must apply the beyond a reasonable doubt standard as a matter of prior panel precedent, we disagree. In *Medina*, our earlier decision adopting proof beyond a reasonable doubt was a consequence of our holding that jurisdiction was an element of the MDLEA offense that the government was required to prove to a jury. 90 F.3d at 464. Section 70504(a), however, squarely abrogated that holding by prescribing that the “[j]urisdiction of the United States . . . is not an element of an offense.” Congress thus demolished the fundamental prop supporting our earlier ruling. Section 70504(a) represents the sort of “clear change in the [statutory] law” that abrogates one of our precedents. *Simone v. Sec’y of Homeland Sec.*, 156 F.4th 1212, 1219 (11th Cir. 2025) (citation modified).

III.

Equipped with these legal principles, we turn to the merits of the defendants' jurisdictional argument.

The district court expressly found that Balboa asked each defendant individually whether “each one or any of them was making a claim of nationality for the vessel” and that “no one made a claim of nationality for the vessel.” Under *Cabezas-Montano*, that establishes the jurisdiction of the United States. When a properly authorized officer of the United States individually asks each of a vessel's occupants if he wants to make a claim of nationality, and none of the occupants do so, the vessel is “without nationality” and subject to the jurisdiction of the United States. *Cabezas-Montano*, 949 F.3d at 589 n.14. And because we have concluded that jurisdiction need only be proven by a preponderance of the evidence, it is of no moment that the district court did not specify the standard of proof it applied in making these findings. The only remaining questions, then, are whether the district court's findings on these two critical points were clearly erroneous.

They were not. In this Circuit, the demanding standard for labeling a credibility determination “clearly erroneous” bears repeating: “[w]e will not reverse a district court's factual finding concerning credibility unless the finding is *contrary to the laws of nature*, or is *so inconsistent or improbable on its face that no reasonable factfinder could accept it*.” *Gruezo*, 66 F.4th at 1290 (citation modified) (emphasis added). In other words, the credibility finding must be a physical impossibility or outside the realm of reasonable belief before we

are willing to reject it. It is unusual for a credibility determination to fail this highly deferential test.

Defendants fault the district court for crediting Balboa's testimony about the nationality question after finding he lied about asking the "person in charge" question. But a lie about one thing does not invariably render the rest of a witness's testimony "contrary to the laws of nature" or "so inconsistent or improbable on its face that no reasonable fact finder could accept it." Indeed, we've consistently said the opposite: "a jury is not bound either to believe or not believe a witness's testimony as a whole. Rather, juries can find one part of a witness's testimony credible while not believing another part of the testimony." *United States v. Takhalov*, 827 F.3d 1307, 1321 n.10 (11th Cir.), *as revised* (Oct. 3, 2016) *abrogated on other grounds*, *Kousisis v. United States*, 605 U.S. 114 (2025); *see also E.E.O.C. v. Massey Yardley Chrysler Plymouth, Inc.*, 117 F.3d 1244, 1250 (11th Cir. 1997) (similar). The principle is so well established that it is part of this Circuit's pattern jury instructions. Juries are expressly told "[y]ou may believe everything a witness says, or part of it, or none of it." *Eleventh Circuit Pattern Jury Instructions* (Criminal Cases) § P1 (2025).

This rule is longstanding and well founded, because expecting flawless accuracy from every witness's testimony is unrealistic. As the Seventh Circuit has observed, "[a]nyone who has ever . . . presided as a judge at a trial knows that witnesses are prone to fudge, to fumble, to misspeak, to misstate, to exaggerate. If any such pratfall warranted disbelieving a witness's entire testimony,

few trials would get all the way to judgment.” *Kadia v. Gonzales*, 501 F.3d 817, 821 (7th Cir. 2007). For our trial system to function, the factfinder must have discretion to accept some of a witness’s testimony while simultaneously rejecting other aspects of his story.

Nothing about this general rule changes when a judge -- rather than a jury -- sits as the factfinder. “[A]s trier of fact, the judge is entitled, just as a jury would be . . . to believe some parts and disbelieve other parts of the testimony of any given witness.” *Krist v. Kolombos Rest. Inc.*, 688 F.3d 89, 95 (2d Cir. 2012) (citation modified); see also *Piraino v. Int’l Orientation Res., Inc.*, 137 F.3d 987, 991 n.2 (7th Cir. 1998) (“[I]t is within the district judge’s discretion to believe or disbelieve testimony based on the overall credibility of the witness; a misleading statement does not require the judge to disbelieve everything the witness says.”).

We have consistently afforded judges this discretion as factfinders. Thus, for example, in *United States v. Stancil*, 4 F.4th 1193 (11th Cir. 2021), we affirmed a magistrate judge’s decision to credit the testimony of two police officers despite some failures of memory and alleged inconsistencies. *Id.* at 1199. Similarly, in *United States v. Smith*, 459 F.3d 1276 (11th Cir. 2006), we explained that “[e]ven if we could presume that . . . the officers’ testimony . . . [was] inherently unreliable” in one respect, we could not “presume that the court committed clear error in crediting the officers’ testimony” on a different point. *Id.* at 1293. We have never suggested

that judges must apply the “primitive psychology” and the “absolutely false maxim” of “*falsus in uno, falsus in omnibus* (false in one thing, false in all things).” *Kadia*, 501 F.3d at 821 (citation modified).

The district court was under no obligation to reject Balboa’s entire testimony because it concluded that one piece of that testimony was a lie. So long as the judge’s credibility findings were not “contrary to the laws of nature” or outside the bounds of reason, we will not disturb them. “[T]he district court has the opportunity to observe the witnesses and their demeanor, and is, therefore, in the best position to make credibility determinations[.]” *Brock v. Norman’s Country Mkt., Inc.*, 835 F.2d 823, 826 (11th Cir. 1988).

The district court did not commit clear error in crediting the critical testimony that Balboa individually asked each defendant if he was making a claim of nationality for the vessel, and that no defendant made such a claim. Nothing in the record makes it physically impossible for Balboa to have asked that question and received that response, nor was his testimony so improbable that no reasonable factfinder could accept it. In fact, several pieces of evidence were consistent with his testimony on this essential point.

For one thing, the documentary evidence supports Balboa’s testimony. The Coast Guard’s “Victor Report” from the interdiction contains the word “none” next to the entry for “Claimed Nationality of Vessel,” indicating that the boarding team made the nationality inquiry. Further, the Right of Visit form that Balboa used to guide his questioning expressly includes the questions about the nationality of the vessel. The form directs the questioner to ask

each person individually “Do you claim nationality for the vessel?” and “Does this vessel have a nationality?” (provided the vessel’s occupants have not already identified a master or person in charge who can answer those questions). And these were the questions that Balboa asked. Finally, Balboa’s incident report expressly relates that Balboa “asked each individual if they wanted to make a claim of nationality for the vessel [and] each of them said no.” Similarly, Coast Guard Boarding Officers Bermudez and Kime’s incident reports say the same thing.⁵

We turn briefly to the defendants’ other non-sentencing claim, namely, that the MDLEA is unconstitutional as applied to the facts of this case. Article I of the Constitution -- in the “Felonies Clause” -- grants Congress broad authority “to define and punish

⁵ While the defendants rely in substantial part on the district court’s finding that Balboa lied, they offer several additional arguments on the jurisdictional question. None are persuasive.

First, Gregorio Palencia claims that Balboa’s failure to ask the “individual in charge” question precluded jurisdiction. *Cabezas-Montano* forecloses that argument. 949 F.3d at 589 n.14.

Second, Guerrero argues that Chirino-Lovera’s comment that the drug vessel was “coming from” Venezuela was a claim of nationality for the vessel. However, Balboa’s testimony specifically distinguished the nationality of the vessel from the question “where are [you] coming from?” The district court credited the distinction. It was not clear error for the trial court to have done so.

Third, Guerrero asserts that the trial court erroneously afforded Balboa some “presumption of credibility.” This claim fails at the gate. The district court was clearly willing to question Balboa’s testimony, as evidenced by its finding that he lied about asking the “individual in charge” question.

. . . Felonies committed on the high Seas[.]” U.S. Const. Art. I, § 8, cl. 10. We have recognized on several occasions that the Felonies Clause is the constitutional basis for the MDLEA. *See Alfonso*, 104 F.4th at 820–21 (first citing *United States v. Estupinan*, 453 F.3d 1336, 1338–39 (11th Cir. 2006) (per curiam); and then citing *Cabezas-Montano*, 949 F.3d at 587). The defendants now argue that the Felonies Clause does not grant Congress the power to proscribe their specific conduct, because a foreign nation’s Exclusive Economic Zone does not qualify as the “high seas” under Article I. However, binding precedent forecloses this claim. *Id.* at 823 (holding that Exclusive Economic Zones are part of the “high seas” for purposes of the Felonies Clause). The statute is constitutional as applied to these defendants.

IV.

Finally, each defendant argues that the district court erred in applying a two-level guidelines enhancement pursuant to U.S.S.G. § 3C1.2. Section 3C1.2 prescribes an enhancement “[i]f the defendant recklessly created a substantial risk of death or serious bodily injury to another person in the course of fleeing from a law enforcement officer.” We can discern no reversible error in the district court’s findings of fact or conclusions of law on this point.

All parties agree that the defendants fled from Coast Guard officers upon detection. The only question is whether they “recklessly created a substantial risk of death or serious bodily injury” while doing so, as the enhancement requires. *See United States v.*

Wilson, 392 F.3d 1243, 1247 (11th Cir. 2004) (“[F]light alone is insufficient to warrant [the] enhancement.”). Here, there was far more than just flight, and therefore we have little difficulty concluding that the defendants recklessly created the necessary danger.

In *United States v. Hernandez*, 864 F.3d 1292 (11th Cir. 2017), we affirmed a district court’s application of a Section 3C1.2 enhancement on very similar facts. There, the defendants were also spotted by the Coast Guard in a drug vessel, and likewise fled, making “aggressive maneuvers” and forcing a Coast Guard helicopter to deploy warning shots and disabling fire. *Hernandez*, 864 F.3d at 1297, 1309. We held under those circumstances that the district court properly applied a Section 3C1.2 enhancement to the vessel’s pilot. *Id.* at 1309. Here, we have similar circumstances, along with a stipulated fact that was not present in *Hernandez*: the “individuals on board the GFV . . . jettison[ed] packages while they fled.” Dumping sizeable bales of cocaine into the vessel’s wake undoubtedly created dangerous obstacles for the pursuing Coast Guard Over the Horizon vessels, and that danger would have been obvious to all the defendants on a 30-foot vessel.

It is indisputable that one of the defendants drove the boat away after being directed by the Coast Guard to stop. At the very same time, the other two defendants tossed over the side of the vessel 19 bales of cocaine weighing in the aggregate some 623 kilograms. Each of the three created the danger in concert with the others. Section 3C1.2 requires no more. See *United States v. Dougherty*, 754 F.3d 1353, 1360 (11th Cir. 2014) (affirming a Section

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3C1.2 enhancement for all three defendants who participated in a car chase -- including two non-drivers -- when the non-driving defendants “personally engaged” in conduct that recklessly created a substantial risk of death or serious bodily injury).

During Chirino-Lovera’s sentencing hearing, the district court found that all three defendants participated in the reckless flight. There is no error here.

AFFIRMED.