

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 22-14035
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ELIA PIERRE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:21-cr-20450-RKA-1

Before JILL PRYOR, BRANCH, and KIDD, Circuit Judges.

PER CURIAM:

Elia Pierre is serving 87 months of imprisonment for conspiracy to possess cocaine while on board a vessel subject to the jurisdiction of the United States. He now appeals, challenging the

constitutionality of the Maritime Drug Law Enforcement Act (“MDLEA”) and the calculation of his advisory imprisonment range under the United States Sentencing Guidelines. After careful review, we affirm.

I. BACKGROUND

In August 2021, the U.S. Coast Guard detected a go-fast boat approximately 112 nautical miles south of Bani, Dominican Republic. The boat displayed no visible indicia of nationality, but the boat’s operators—Pierre and Cristino Cueva De La Cruz—claimed Dominican nationality for the vessel. When the Dominican government did not confirm registry, the Coast Guard treated the boat as a vessel without nationality and recovered 328 kilograms of cocaine from bales that had been thrown overboard.

Pierre and De La Cruz were indicted for conspiracy to possess five kilograms or more of cocaine on board a vessel, in violation of 46 U.S.C. §§ 70503(a)(1), 70506(a) and (b), and 21 U.S.C. § 960(b)(1)(B) (Count One); and possession with intent to distribute five kilograms or more of cocaine on board a vessel, in violation of 46 U.S.C. §§ 70503(a)(1) and 70506(a), 18 U.S.C. § 2, and 21 U.S.C. § 960(b)(1)(B) (Count Two).

The defendants moved to dismiss the indictment, arguing that the MDLEA was unconstitutional both facially and as applied to their case. Specifically, they contended that (1) Congress exceeded its authority under the Constitution’s Felonies Clause when enacting § 70502(d)(1)(C), which defines a “vessel without nationality,” since Congress could exercise jurisdiction only over vessels

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considered “stateless” under international law; (2) their go-fast boat was stopped in the Dominican Republic’s exclusive economic zone (“EEZ”), not on the “high Seas,” meaning the offense fell outside of Congress’s jurisdiction; and (3) the MDLEA exceeds Congress’s powers and violates due process because it permits the United States to exert jurisdiction over foreign nationals without a nexus between the offense and the United States.

The district court denied the motion to dismiss, and Pierre thereafter pleaded guilty to Count One.

Using the November 2021 United States Sentencing Guidelines Manual, Pierre’s presentence investigation report (“PSI”) calculated an advisory guideline range of 108 to 135 months of imprisonment. This calculation did not, however, include any adjustment for Pierre’s role in the offense. Pierre objected to the PSI’s failure to assess a two-level minor-role reduction, emphasizing that he was merely a courier, lacked decision-making power, had no ownership interest in the drugs, and was to be paid a modest \$35,000 compared to the street value of the cocaine.

At a joint sentencing hearing for both defendants, the district court overruled Pierre’s objection. It noted that, in its experience, a defendant deserving of the minor-role reduction was someone simply “driving [drugs] from point A to point B” with “no evidence that he ha[d] any larger role in the organization.” In contrast, the court explained that it “[did not] think this guideline application applie[d] to . . . mariners out at sea transporting hundreds or sometimes thousands of kilos of cocaine into the country.” It then

walked through no less than fifteen positions that could be held by the “hundreds, thousands of people” involved in a drug trafficking organization, including those who help manufacture the cocaine and those that meet the boat at its destination and help “the process [start] all over again.” It observed that any one of those individuals was “at the very least as culpable as the defendants” in this case.

The district court elaborated that Pierre and De La Cruz were “precisely where they [were], integral and essential to the offense, and much more culpable . . . than a vast horde of other people who ha[d] extremely discrete and minor jobs in the course of fulfilling the drug trafficking organization’s objectives.” It found it “absurd to suggest” that the other participants in the trafficking were more culpable than Pierre and De La Cruz, as their job was to “actually facilitate the importation . . . of hundreds and maybe more kilos of cocaine” into the United States or into the Dominican Republic.

The court concluded its analysis by discussing the several factors outlined in U.S.S.G. § 3B1.2’s commentary. While the court recognized that neither defendant planned or organized the criminal activity, it found that its decision to deny the role reduction was supported because (1) both defendants understood the scope and structure of the endeavor because they were tasked with driving a boat carrying cocaine; (2) they exercised decision-making authority by taking responsibility for the vessel and the voyage; (3) their participation was integral to the success of the voyage; and (4) Pierre

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specifically stood to benefit with a significant payment for his efforts in comparison to his \$20-a-day income as a fisherman.

The district court adopted the PSI's guideline calculations and sentenced Pierre to 96 months of imprisonment. Pierre timely appealed to our Court. We stayed briefing in this appeal pending our Court's decisions in *United States v. Alfonso*, 104 F.4th 815 (11th Cir. 2024), *cert. denied*, 145 S. Ct. 2706 (2025), and *United States v. Canario-Vilomar*, 128 F.4th 1374 (11th Cir.), *cert. denied*, 146 S. Ct. 269 (2025). We also issued a limited remand to allow the district court to resolve Pierre's sentence reduction motions. The court ultimately reduced Pierre's sentence to 87 months of imprisonment. This appeal is now ripe for our review.

II. STANDARD OF REVIEW

When a motion to dismiss the indictment is based on subject matter jurisdiction, we review the district court's denial of that motion de novo. *Alfonso*, 104 F.4th at 820. We likewise review de novo constitutional challenges. *Id.* A defendant's guilty plea does not bar him from challenging the constitutionality of the statute of conviction. *Class v. United States*, 138 S. Ct. 798, 803 (2018).

We review a district court's interpretation and application of the Sentencing Guidelines de novo. *United States v. Dupree*, 57 F.4th 1269, 1272 (11th Cir. 2023) (en banc). However, "[w]e review a district court's denial of a role reduction for clear error." *United States v. Cruickshank*, 837 F.3d 1182, 1192 (11th Cir. 2016). "Clear error review is deferential, and 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.” *Id.* (citation modified).

III. DISCUSSION

A. *Constitutional Challenges to the MDLEA*

The MDLEA makes it a crime to “knowingly or intentionally possess with intent to manufacture or distribute, a controlled substance on board a covered vessel subject to the jurisdiction of the United States, and to conspire to do the same.” *Alfonso*, 104 F.4th at 820 (citation modified). A “vessel subject to the jurisdiction of the United States” includes “a vessel without nationality,” which is defined to include “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.” 46 U.S.C. § 70502(c)(1)(A), (d)(1)(C). The MDLEA “applies even though the act is committed outside the territorial jurisdiction of the United States.” *Id.* § 70503(b).

On appeal, Pierre reasserts the three constitutional challenges raised in the motion to dismiss filed below. As Pierre acknowledges, each of these arguments is foreclosed by our precedent.

In *Alfonso*, the defendants were convicted under the MDLEA after they were found aboard a go-fast vessel containing drugs in the Dominican Republic’s EEZ. 104 F.4th at 818. On appeal, the defendants challenged the constitutionality of the MDLEA as ap-

plied to them under the Felonies Clause, which “bestows on Congress . . . the power to define and punish felonies committed on the high Seas.” *Id.* at 818–20 (citation modified); *see also* U.S. CONST. art. I, § 8, cl. 10. They specifically argued, in relevant part, that the district court lacked subject matter jurisdiction over their case because a country’s EEZ was not part of the “high Seas.” *See Alfonso*, 104 F.4th at 818–19, 824.

We rejected the defendants’ arguments, noting that “we repeatedly have upheld the MDLEA as a valid exercise of Congress’s power to define and punish Felonies on the high Seas.” *Id.* at 820 (citation modified). We held that “international law does not limit the Felonies Clause” and explained that “[n]othing about the modern EEZ as defined by customary international law disturbs in any way the Founding era concept of the term ‘high [S]eas’ that informed the original meaning of the Felonies Clause.” *Id.* at 823, 826. We thus held that a nation’s EEZ is “part of the ‘high [S]eas’ for purposes of the Felonies Clause,” and thus, “enforcement of the MDLEA in EEZs is proper.” *Id.* at 823, 827.

We reaffirmed this holding in *Canario-Vilomar*, a case in which the defendants pursued the three arguments that Pierre maintains in the instant appeal. *See* 128 F.4th at 1378–79. Relying on *Alfonso*, we concluded that Congress was not constrained by international law in crafting the MDLEA and rejected the argument “that Congress could not reach [a defendant] merely because he chose to traffic drugs in Colombia’s EEZ rather than farther out into the open ocean.” *Id.* at 1381–82.

Additionally, we rejected the argument “that the MDLEA’s definition of a vessel without nationality—specifically, the inclusion of vessels for which a claimed nation can neither confirm nor deny registration—is ultra vires.” *Id.* at 1381. Relying on *Alfonso*’s holding that the Felonies Clause is not limited by customary international law, we reasoned “that international law cannot limit Congress’s authority to define ‘stateless vessel’ for purposes of the MDLEA,” such that the defendants’ argument was foreclosed, even though prior cases had not addressed this precise issue. *Id.*

Finally, we concluded that the argument that “the MDLEA violate[d] principles of due process” by allowing “the United States to assert jurisdiction over foreign nationals for conduct that bears no nexus with the United States” was “plainly foreclosed by our binding precedent.” *Id.* at 1382–83. In so holding, we emphasized that we “have explained repeatedly” that “the conduct proscribed by the MDLEA need not have a nexus to the United States because universal and protective principles support its extraterritorial reach.” *Id.* at 1383 (citation modified).

We are bound to follow *Alfonso* and *Canario-Vilomar*, as they have not been overruled, or undermined to the point of abrogation, by the Supreme Court or this Court sitting en banc. *United States v. White*, 837 F.3d 1225, 1228 (11th Cir. 2016). Accordingly, Pierre’s constitutional challenges to the MDLEA must fail.

B. *Minor-Role Reduction*

The Sentencing Guidelines provide for a two-level reduction if a defendant was a minor participant in the criminal activity.

U.S.S.G. § 3B1.2(b). A minor participant is someone “who is less culpable than most other participants in the criminal activity, but whose role could not be described as minimal.” *Id.* § 3B1.2, cmt. n.5.¹ The determination of whether to apply a minor role adjustment “is based on the totality of the circumstances and involves a determination that is heavily dependent upon the facts of the particular case.” *Id.* § 3B1.2, cmt. n.3(C).

“[T]he district court’s ultimate determination of the defendant’s role in the offense should be informed by two principles discerned from the Guidelines:” (1) “the defendant’s role in the relevant conduct for which [he] has been held accountable at sentencing,” and (2) his “role as compared to that of other participants in [his] relevant conduct.” *United States v. De Varon*, 175 F.3d 930, 940 (11th Cir. 1999) (en banc). The Guidelines commentary also provides the following “non-exhaustive list of factors” that district courts “should consider”: (1) “the degree to which the defendant understood the scope and structure of the criminal activity”; (2) “the degree to which the defendant participated in planning or organizing the criminal activity”; (3) “the degree to which the defendant exercised decision-making authority or influenced the exercise of decision-making authority”; (4) “the nature and extent of the defendant’s participation,” including which “acts the defendant performed and the responsibility and discretion the defendant had

¹ We consider the Guidelines commentary in this case because neither party contests its validity. See *United States v. Jews*, 74 F.4th 1325, 1327–28 & n.2 (11th Cir. 2023). Compare *Dupree*, 57 F.4th at 1275–79.

in performing those acts”; and (5) “the degree to which the defendant stood to benefit from the criminal activity.” U.S.S.G. § 3B1.2, cmt. n.3(C).

“Under *De Varon*’s first principle, the inquiry is whether the defendant played a relatively minor role in the conduct for which he has already been held accountable—not a minor role in any larger criminal conspiracy.” *United States v. Valois*, 915 F.3d 717, 732 (11th Cir. 2019) (citation modified). In this case, Pierre “knowingly participated in the illegal transportation of a large quantity of cocaine, he and his transportation role were important to that scheme, and he was held accountable for that conduct only.” *United States v. Gruezo*, 66 F.4th 1284, 1294 (11th Cir. 2023); *see also United States v. Cabezas-Montano*, 949 F.3d 567, 607 (11th Cir. 2020). While these facts do not render Pierre ineligible for the minor-role reduction, they support the district court’s denial of this adjustment. *See Cabezas-Montano*, 949 F.3d at 607; *Valois*, 915 F.3d at 732.

As the district court found, Pierre—a courier of 328 kilograms of cocaine—was “integral” to the conspiracy and possession with intent scheme. And although Pierre may not have orchestrated the overall drug trafficking conspiracy himself, he understood his role, followed the plan, and executed the importation scheme with the assistance of his co-defendant. *See De Varon*, 175 F.3d at 942–43 (“[W]hen a drug courier’s relevant conduct is limited to [his] own act of importation, a district court may legitimately conclude that the courier played an important or essential role in the importation of those drugs.”).

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Pierre contends that the district court erred because, in its analysis, it inconsistently weighed his role in relation to the illegal organization's global network and applied a "bright line" rule that mariners transporting large quantities of drugs are never eligible for the minor role reduction. We are unpersuaded by these arguments.

In reaching its conclusion, the court considered the "totality of the circumstances" by looking to numerous factors, including those outlined in *De Varon* and the commentary to U.S.S.G. § 3B1.2. *See Cabezas-Montano*, 949 F.3d at 606; *cf. Cruickshank*, 837 F.3d at 1195 (concluding that, "although nothing . . . precludes a district court from considering the drug quantity with which the defendant was involved as an indicator of his role, . . . it was legal error for the district court to say that this is the only factor to be considered" (emphasis omitted)). After opining on the numerous roles that could be held in a global drug trafficking organization, the district court not only concluded that Pierre played a principal role in the specific voyage for which he was held accountable but also that Pierre was no less culpable than hundreds, if not thousands, of other participants in the larger criminal enterprise. Throughout the sentencing proceedings, the court found that Pierre was "integral" in his role of transporting hundreds of kilograms of cocaine across the open ocean, remarked that these drugs would possibly enter the United States at some point, and concluded that the instant voyage was one of many in the global network of drug trafficking. We see no reason to disturb these findings. *See Cruickshank*, 837 F.3d at 1192.

In short, while we recognize, as the district court did, that Pierre was likely only one piece of a much larger criminal conspiracy, that is not a sufficient basis to award him a minor-role reduction. *See Gruezo*, 66 F.4th at 1294 (explaining that a defendant “may not prove he is entitled to a minor-role reduction by pointing to a broader criminal scheme in which he was a minor participant but for which he was not charged”). The fact that his involvement in the broader drug trafficking scheme may have been less than many unknown co-conspirators does not mean that he played a minor role in the specific voyage for which he was held responsible in this case. *See United States v. Martin*, 803 F.3d 581, 591 (11th Cir. 2015); *De Varon*, 175 F.3d at 941.

As a final matter, Pierre contends that remand is required due to multiple amendments to the Sentencing Guidelines promulgated during the pendency of his appeal. “Although this Court applies the version of the Guidelines in effect on the date of sentencing, when reviewing the district court’s application of the Guidelines, we consider clarifying amendments retroactively on appeal regardless of the date of sentencing.” *Cruickshank*, 837 F.3d at 1194.

Pierre relies considerably on Amendment 833, which inserted language in a special instruction to U.S.S.G. § 2D1.1 stating “that the minor-participant reduction is ‘generally warranted’ for defendants whose primary function is a low-level trafficking role, like a courier.” *United States v. Martinez*, 172 F.4th 1306, 1315 (11th Cir. 2026); *see also* U.S.S.G. § 2D1.1(e)(2)(B) (Nov. 2025). However,

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after briefing concluded in this appeal, we held that Amendment 833 constituted a substantive change to the Guidelines and was not retroactively applicable. *Martinez*, 172 F.4th at 1316. We therefore do not consider this amendment in this case.

Even assuming the remaining amendment to § 3B1.2's commentary cited by Pierre is clarifying and retroactively applicable, these additional considerations do not impact our analysis. Contrary to Pierre's arguments, the district court appropriately considered the degree to which he benefitted from the voyage. It was not precluded from considering Pierre's \$20-a-day income as a fisherman, as compared to his \$35,000 payment for the instant voyage, and it was not required to compare this payment with the value of the cocaine being transported, as Pierre suggests. *See* U.S.S.G. § 3B1.2, cmt. n.3(A) (Nov. 2025). And, in any event, there is no indication that this is the sole factor the district court relied upon in declining Pierre the minor-role adjustment.

We therefore find no clear error in the district court's determination that Pierre failed to meet his burden of proving his minor role in the instant offense and affirm the court's denial of the two-level reduction. *De Varon*, 175 F.3d at 939.

IV. CONCLUSION

We **AFFIRM** Pierre's conviction and sentence.