

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-12121
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALVARO MONTERO-MONSALVO,

a.k.a. Papa,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:21-cr-00377-KKM-AEP-1

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

PER CURIAM:

Alvaro Montero-Monsalvo appeals his conviction for conspiring with other persons, including persons on board a vessel subject to United States jurisdiction, to distribute and possess with the intent to distribute five kilograms or more of cocaine. *See* 46 U.S.C. §§ 70503(a)(1), 70506 (a)–(b); 21 U.S.C. § 960(b)(1)(B)(ii). We affirm.

I.

Montero-Monsalvo and other members of a Colombian drug-trafficking organization arranged for the transportation of cocaine aboard a Venezuelan fishing vessel called the *Maria Purisima*. The *Maria Purisima* was traveling about 42 nautical miles north of Venezuela when a Royal Netherlands naval ship with a detachment of the United States Coast Guard aboard intercepted it. As the naval ship approached, the crew of the *Maria Purisima* threw at least a dozen bales of cocaine overboard. The Coast Guard detachment recovered more than 300 kilograms of cocaine from the jettisoned bales.

The *Maria Purisima* flew a Venezuelan flag from the top of the pilot house, and when questioned, the captain claimed that the vessel was registered in Venezuela. So the government of the United States contacted the government of Venezuela and asked for authorization to stop and board the *Maria Purisima* and search the vessel, cargo, and crew. The Venezuelan government granted authorization as requested. Later, the Venezuelan government also waived its primary right to exercise jurisdiction over the *Maria*

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Purísima and its cargo and crew, to the extent necessary to enforce United States law.

Law enforcement arrested the fourteen crew members aboard the *Maria Purísima* and transported them to Florida, where they were prosecuted for drug trafficking. Crew members and other cooperating witnesses told federal agents that Montero-Monsalvo had traveled to Venezuela to hire the captain and secure the fishing vessel for the cocaine-smuggling venture.

Montero-Monsalvo was extradited from Colombia and charged with conspiring with others, including individuals on board a vessel subject to United States jurisdiction, to distribute and possess with intent to distribute five kilograms or more of cocaine, in violation of the Maritime Drug Law Enforcement Act and 21 U.S.C. § 960(b)(1)(B)(ii). He filed motions to dismiss the indictment, arguing that the district court lacked jurisdiction under the MDLEA and that the MDLEA was unconstitutional as applied to him. The district court denied his motions to dismiss.

After a bench trial, the district court adjudicated Montero-Monsalvo guilty as charged and sentenced him to 156 months in prison followed by five years of supervised release. He now appeals, arguing again that the district court lacked jurisdiction and that the MDLEA is unconstitutional as applied to him.

II.

We review the denial of a motion to dismiss an indictment for lack of jurisdiction de novo. *United States v. Alfonso*, 104 F.4th 815, 820 (11th Cir. 2024). We also review de novo a district court's

interpretation of a statute and its determination that the statute is constitutional. *Id.* We review a district court’s jurisdictional fact-findings for clear error. *United States v. Gruezo*, 66 F.4th 1284, 1290 (11th Cir. 2023).

III.

The MDLEA makes it a crime to knowingly or intentionally “manufacture or distribute, possess with intent to manufacture or distribute, or place or cause to be placed with intent to manufacture or distribute a controlled substance on board a covered vessel,” or to conspire to do the same. 46 U.S.C. §§ 70503(a)(1); 70506(b). A “covered vessel” is defined in part as “a vessel of the United States or a vessel subject to the jurisdiction of the United States.” *Id.* § 70503(e)(1). And a vessel registered in a foreign nation is “subject to the jurisdiction of the United States” under the MDLEA “if that nation has consented or waived objection to the enforcement of United States law by the United States.” *Id.* § 70502(c)(1)(C).

Montero-Monsalvo argues that the district court lacked jurisdiction to convict him under the MDLEA because (1) as a Venezuelan vessel, the *Maria Purisima* was not “subject to the jurisdiction of the United States” absent Venezuela’s consent, and the government’s assertion that Venezuela consented to United States jurisdiction was not credible; and (2) he is a foreign national whose role in the conspiracy took place entirely on foreign soil—not “on board a covered vessel”—and the cocaine carried by the *Maria Purisima* was destined for the Netherlands, not the United States. He

argues that if the MDLEA is interpreted to cover his conduct, it exceeds Congress’s constitutional power to define and punish “Felonies committed on the high Seas,” and his prosecution violates the Fifth Amendment’s Due Process Clause because there was no nexus between the United States and his conduct, the vessel, or the drug-trafficking conspiracy. U.S. Const. art. I, § 8, cl. 10. These arguments are foreclosed by our binding precedents or by the statute itself.

First, the MDLEA provides that a foreign nation’s consent or waiver of objection to the enforcement of U.S. law by the United States “is proved conclusively by certification of the Secretary of State or the Secretary’s designee.” 46 U.S.C. § 70502(c)(2)(B). Here, the district court did not clearly err in finding that Venezuela waived its right to exercise jurisdiction over the *Maria Purisima* to the extent necessary to enforce U.S. law because the government produced a certification to that effect by the Secretary of State’s designee, and because Montero-Monsalvo and his attorney signed a pretrial stipulation conceding that fact.

Second, Montero-Monsalvo’s constitutional arguments fail for reasons we have explained before. We recently held that, even if the Felonies Clause itself does not authorize Congress to punish drug-trafficking conspiracies in foreign territories, the Necessary and Proper Clause does. *United States v. Pineda-Torres*, 184 F.4th 1252, 1254 (11th Cir. 2026). The Necessary and Proper Clause permits legislation that is “necessary and proper for carrying into Execution” Congress’s enumerated powers, including the power to

punish felonies on the high seas. U.S. Const. art. I, § 8, cl. 18; *see Pineda-Torres*, 184 F.4th at 1254. Because “land-based conspirators often ‘direct, finance, and profit from’ drug smuggling operations” at sea, the Necessary and Proper Clause permits Congress to punish those conspirators in aid of its “legitimate end of banning drug trafficking on the high seas.” *Pineda-Torres*, 184 F.4th at 1254 (quotation omitted). And as “we have explained repeatedly, the conduct proscribed by the MDLEA need not have a nexus to the United States because universal and protective principles support its extraterritorial reach.” *United States v. Canario-Vilomar*, 128 F.4th 1374, 1383 (11th Cir. 2025) (alteration adopted, quotation omitted).

IV.

We **AFFIRM** Montero-Monsalvo’s conviction.