

# United States Court of Appeals For the First Circuit

---

No. 18-1803

UNITED STATES,

Appellee,

v.

RAFAEL ESPINAL-MIESES,

Defendant - Appellant.

---

Before

Barron, Chief Judge,  
Lynch and Howard, Circuit Judges.

---

## JUDGMENT

Entered: June 26, 2023

Defendant-appellant Rafael Espinal-Mieses appeals from a conviction and sentence imposed after entering a straight plea of guilty to various counts of an indictment, including a count under the Maritime Drug Law Enforcement Act ("MDLEA"), 46 U.S.C. §§ 70503, 70502(c)(1), for conspiracy to possess cocaine "on board a vessel subject to the jurisdiction of the United States."

After carefully reviewing the briefing and the record below, we affirm. Defendant first challenges jurisdiction under the MDLEA, asserting that the government failed to perfect statelessness jurisdiction. This argument fails, as the record indicates that the government was proceeding under "customs water" jurisdiction-- not statelessness jurisdiction--and that theory of jurisdiction is supported by facts to which defendant admitted at his plea hearing. See 46 U.S.C. § 70502(c)(1)(D) ("[T]he term 'vessel subject to the jurisdiction of the United States' [also] includes . . . a vessel in the customs waters of the United States . . ."); United States v. Santana-Rosa, 132 F.3d 860, 863–64 (1st Cir. 1998) ("[T]he customs waters of the United States extend for four leagues, or twelve miles, from United States territory unless another distance has been established by treaty."). With his briefing before this court, defendant has failed to demonstrate any error as to the foregoing conclusion.

Defendant also challenges the district court's conclusion that the safety valve provision, as it existed at the time of sentencing, did not cover his MDLEA offense. This argument is now foreclosed by this court's decision in United States v. De La Cruz, 998 F.3d 508, 509 (1st Cir. 2021) ("We now join the majority of circuits in holding that MDLEA offenses were not safety-valve eligible under the then-applicable safety valve provision and so affirm.").

Affirmed. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Michael March Brownlee  
Rafael Espinal-Mieses  
Desiree Laborde-Sanfiorenzo  
Mariana E. Bauzá-Almonte  
Antonio Perez-Alonso