

**In The
Supreme Court of The United States**

Carlos Canario-Vilomar,

Petitioner,

v.

United States of America,

Respondent.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit**

**Supplemental Brief in Support of
Petition For Writ Of Certiorari**

**Hector A. Dopico
Federal Public Defender**

**Tracy Dreispul*
Assistant Fed. Public Defender
**Counsel of Record for Petitioner*
150 W. Flagler Street, Suite 1500
Miami, FL 33130
(305) 536-6900
Tracy_Dreispul@fd.org**

Sept. 19, 2025

Supplemental Brief in Support of Petition For Writ Of Certiorari

Pursuant to Supreme Court Rule 15.8, Petitioner Carlos Canario-Vilomar respectfully submits the following supplemental brief in support of his petition for a writ of certiorari, calling the Court's attention to intervening events demonstrating the importance of the questions presented, and the urgent need for the Court's review.

I.

Venezuela's response to the United States' law enforcement activity inside its Exclusive Economic Zone demonstrates why the "high Seas" in Article I, § 8, cl. 10, must be defined by international law.

Mr. Canario-Vilomar's petition asks whether Congress's Article I, section 8, clause 10 power "[t]o define and punish ... Felonies committed on the high Seas," authorizes the United States to enforce its criminal laws inside another nation's exclusive economic zone ("EEZ"). Petition for Writ of Certiorari ("Petition") at iii. On Friday, September 12, 2025, a United States Coast Guard law enforcement detachment, stationed aboard a U.S. naval vessel, boarded and searched a vessel located within Venezuela's EEZ for drugs—leading to prompt condemnation from the Venezuelan government and an international dispute over the meaning of the "high Seas."

The vessel was located 48 nautical miles northeast of La Blanquilla Island when it was boarded, and was undisputedly within Venezuela's EEZ. *Venezuela denounces the boarding of a U.S. destroyer on a tuna vessel in its Exclusive Economic Zone*, CE Noticias Financieras English, Sept. 13, 2025 (Exhibit A). While the United

States “contended that the boat was in international waters,” Luis Martinez and Victoria Beaulé, *US official says personnel from Navy ship inspected Venezuelan fishing boat for drugs*, ABC News, Sept. 13, 2025 (Exhibit B), Venezuela’s Minister of Foreign Affairs described the incident as a “violation of sovereignty,” and an attempt to “escalate” aggressions against the nation. *Venezuela recognizes Cuba’s solidarity for its rejection of U.S. assault on vessel*, CE Noticias Financieras English, Sept. 14, 2025. (Exhibit C). *See also Caracas condemns US for seizing fishing boat in Venezuelan waters*, Jamaica Observer, Sept. 13, 2025 (Factiva 2025) (Exhibit D).

This imbroglio provides a timely example of why the Framers incorporated international law into the extraterritorial grant of power in the Felonies Clause. *See generally* Anthony J. Bella, Jr. and Bradford R. Clark, *The Alien Tort Statute and The Law of Nations*, 78 U. CHI. L. REV. 445, 476 (Spring 2011) (discussing the “perfect rights” of nations, including the “right to territorial sovereignty,” which were “well known to members of the Founding generation” and “so important that interference with them provided the offended nation with just cause for reprisals or war”); *see also* Stewart Jay, *The Status of the Law of Nations in Early American Law*, 42 VAND. L. REV. 819, 825 (April 1989) (noting that the Framers’ desire to ensure compliance with international law was among the “main reasons for convening the Philadelphia Convention in 1787”).

Venezuela’s reaction to the United States’ effort to investigate violations of our drug laws inside its EEZ provides a clear example of why the Framers would have understood the term “high Seas” to include *only* those areas of the oceans considered

to be the high seas by the international community. A constitutional provision granting Congress the purported power to define the “high Seas” in contravention of other states’ territorial rights would have posed an existential threat to the nation, and would have been anathema to the Constitution’s drafters. Venezuela’s umbrage at the United States’ infringement of its sovereignty represents an incident the Framers would have sought to avoid, and demonstrates the importance of the question before the Court.

Although the United States waived its opportunity to respond to Mr. Canario-Vilomar’s petition, the Court recently requested a response to a petition raising the same constitutional claim. *See United States v. Alfonso*, No. 24-6177. This case arguably presents a superior vehicle as compared to *Alfonso*, because it presents additional questions of constitutional law that had been left unresolved by the Eleventh Circuit in Mr. Alfonso’s case. *See* Petition at 8. Mr. Canario-Vilomar’s case therefore presents an ideal vehicle for addressing the important question of constitutional law regarding the original meaning of the “high Seas” under the Felonies Clause, and the petition should be granted.

II.

This Court’s review of the United States’ regulatory authority over drug trafficking offenses on the high seas is more important than ever.

The United States’ recent military strikes on two Venezuelan drug boats further underscore the need for review.

The United States has been prosecuting drug trafficking on the high seas under the Maritime Drug Law Enforcement Act for more than 30 years. In recent weeks, however, the United States government has adopted a different approach. On September 2, 2025, the United States struck a vessel believed to be carrying drugs, killing 11 individuals.

According to reporting by the New York Times:

The U.S. Coast Guard, sometimes with help from the Navy, has frequently interdicted boats suspected of smuggling drugs in the Caribbean Sea, searched for illicit cargo, and—if its suspicions were accurate—arrested the people aboard for prosecution.

...

In July, Mr. Trump signed a still-secret directive instructing the Pentagon to use military force against some of the criminal groups his team had designated as terrorist organizations. The attack on the boat last week appears to signal an opening phase of operations stemming from that directive.

Charlie Savage and Helene Cooper, *Boat Suspected of Smuggling Drugs is Said to Have Turned Before U.S. Attacked It*, N.Y. Times (Sept. 10, 2025) (Exhibit E).

The administration has promised further strikes:

Mr. Trump’s aides have boasted that the operation is only the beginning of a war against suspected drug smugglers. Defense Secretary Pete Hegseth told reporters last week, “We smoked a drug boat, and there’s

11 narco terrorists at the bottom of the ocean, and when other people try to do that, they're going to meet the same fate.”

Id.

On Monday, September 15, 2025, the United States conducted a second strike, killing three more individuals. Eric Schmitt, Helene Cooper and Charlie Savage, *U.S. strikes a second Venezuela boat, killing three, Trump says*, N.Y. Times, Sept. 15, 2025 (Exhibit F).

The President’s authority to use military force is obviously not before the Court in this case. However, the President’s recent decision to treat conduct similar to Mr. Canario-Vilomar’s as if it were a military activity raises additional questions about whether Mr. Canario-Vilomar was properly subjected to the United States’ regulatory jurisdiction in the first instance. Mr. Canario-Vilomar’s case was prosecuted as if it were a garden-variety drug offense, committed in a territory where the United States Constitution gives Congress *carte blanche* authority to regulate (*i.e.*, the “high Seas”). This theory of prosecution stands in grave tension with the President’s recent treatment of such offenses as military operations.

In any event, this Court still has the authority to determine whether Congress’s Article I authority to regulate felonies committed on the high seas is limited, in any way, by international law. And the resolution of that question now appears to be more important than ever.

CONCLUSION

For the foregoing reasons, Mr. Canario-Vilomar's petition for a writ of certiorari should be granted.

Respectfully submitted,

Hector A. Dopico
Federal Public Defender

/s/ Tracy Dreispul
Tracy Dreispul*
Assistant Federal Public Defenders
150 W. Flagler Street, Suite 1500
Miami, FL 33130
305-536-6900

Miami, Florida
Sept. 19, 2025

*Counsel of Record

EXHIBIT A

Venezuela denounces the boarding of a U.S. destroyer on a tuna vessel in its Exclusive Economic Zone

CE Noticias Financieras English

September 13, 2025 Saturday

Copyright 2025 Content Engine, LLC.

All Rights Reserved

Copyright 2025 CE Noticias Financieras All Rights Reserved

Length: 532 words

Body

The Government of Venezuela has denounced the boarding of a Venezuelan fishing vessel, the 'Carmen Rosa', by a U.S. destroyer, the 'USS Jason Dunhan', in waters of the Exclusive Economic Zone (EEZ) of the Latin American country.

"We denounce the illegal boarding by a destroyer ship of the United States Navy of the fishing vessel 'Carmen Rosa', which is operated by nine humble Venezuelan tuna fishermen in national waters," Venezuelan Foreign Minister Yván Gil has posted on his Telegram account.

The foreign minister has denounced "this illegal and hostile act, promoted by certain political sectors in Washington (which) seeks to justify an escalation of war in the Caribbean, a region that was declared a Zone of Peace in 2014 by CELAC." "Venezuela strongly condemns these warmongering actions and the violation of our sovereignty", he added.

The Venezuelan vessel "was illegally and hostilely besieged by a U.S. Navy destroyer, the 'USS Jason Dunhan', equipped with powerful cruise missiles" and "highly trained marines" when it was 48 nautical miles northeast of La Blanquilla Island, in waters of the Venezuelan Exclusive Economic Zone (EEZ).

The warship deployed 18 troops with long arms who boarded the vessel for eight hours and prevented the crew from communicating. This action "lacks all strategic proportionality and constitutes a direct provocation" by the "illegal use of exaggerated military means".

Caracas has denounced that those responsible seek an incident that justifies a war escalation in the Caribbean with a false flag operation seeking a "regime change". "The incident reflects the shameful conduct of political sectors in Washington that, in an irresponsible manner, commit military resources of the highest cost and trained soldiers as instruments to fabricate war adventures, also attacking their own prestige and military honor by executing such a grotesque and unconscionable maneuver," he added.

The Bolivarian National Armed Forces were monitoring "minute by minute" the operation and recorded what happened with overflights in the area where the incident occurred in order to monitor and dissuade the U.S. aggression, as well as to protect Venezuelan fishermen.

Venezuela thus demands the United States the "immediate cessation" of these operations which "endanger peace and stability in the Caribbean", and urges the people of the United States to recognize the dangerousness of these maneuvers ordered by its Government and reject "the use of its soldiers as sacrificial pieces to sustain the desires of a greedy and predatory elite".

The Exclusive Economic Zone is a maritime area adjacent to a country's territorial waters that extends up to 200 nautical miles from the baseline. In that area the country has sovereign rights for the exploration, exploitation and conservation of natural resources, as well as jurisdiction over economic and research activities. However, other states can navigate and fly over the area freely.

EXHIBIT B

Live

Video

Shows ▾

Shop



Log In

Stream on

US official says personnel from Navy ship inspected Venezuelan fishing boat for drugs

The Venezuelan government criticized the actions. No drugs were found.

By [Luis Martinez](#) and [Victoria Beaulé](#)
September 13, 2025, 7:57 PM



US official says the Navy inspected Venezuelan fishing boat for drugs The Venezuelan government accused the U.S. military of boarding and occupying a civilian fishing boat on Friday in the Caribbean.

The Venezuelan government accused U.S. personnel of boarding and occupying a civilian fishing boat on Friday, in the latest example of tensions as the U.S. carries out "counter narco-terror operations" in the Caribbean.

A U.S. official told ABC News that Coast Guard personnel stationed aboard the U.S. Navy destroyer USS Jason Dunham searched the fishing boat for drugs following a tip but did not locate any contraband.

Venezuela's Foreign Ministry office claimed Saturday that the U.S. Navy deployed "eighteen personnel with long-range weapons who boarded and occupied" the Venezuelan fishing vessel in waters within Venezuela's Exclusive Economic Zone (EEZ).



A drone view shows the U.S. Navy guided missile destroyer USS Jason Dunham (DDG-109) as it docks in Ponce, Puerto Rico, September 6, 2025.

Ricardo Arduengo/Reuters

"This operation lacks any strategic proportionality and constitutes a direct provocation through the illegal use of excessive military means," the foreign ministry said in a statement.

A U.S. official with knowledge of the incident confirmed to ABC News that the Jason Dunham received information to board the Venezuelan small craft to see if it was carrying drugs.

White House grounds for strike on alleged drug boat is a murky legal issue→

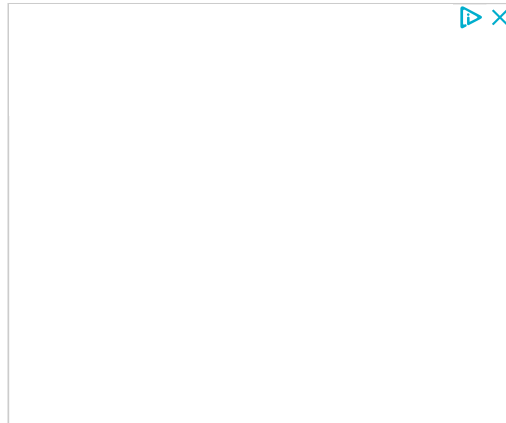
The law enforcement detachment aboard the destroyer boarded the Venezuelan craft and carried out a search that turned up no drugs, according to the official.

The U.S. official disputed claims from the Venezuelan foreign ministry that the search took eight hours and they contended the boat was in international waters.

Trump announced earlier this month that he ordered more military presence in the ocean to tackle illegal drug smuggling.

On Sept. 2, he announced that the U.S. [ordered a strike](#) on an alleged drug boat that originated from South America and "positively identified Tren de Aragua Narcoterrorists." The president said 11 alleged terrorists were killed.

Earlier this month, the Pentagon said [two Venezuelan military aircraft](#) flew near the same U.S. Navy vessel -- the USS Jason Dunham -- in international waters in a "highly provocative move" that it said aimed to disrupt the U.S. operations.



Related Topics

[Venezuela](#)



Sponsored Content by Taboola

EXHIBIT C

Venezuela recognizes Cuba's solidarity for its rejection of U.S. assault on vessel

CE Noticias Financieras English

September 14, 2025 Sunday

Copyright 2025 Content Engine, LLC.

All Rights Reserved

Copyright 2025 CE Noticias Financieras All Rights Reserved

Length: 376 words

Body

The Venezuelan government led by President Nicolás Maduro, thanked the solidarity of the Republic of Cuba for its condemnation of the assault of a small fishing vessel by a US Navy destroyer.

"On behalf of President Nicolás Maduro, we express our deep appreciation to Cuban Foreign Minister Bruno Rodríguez for his firm rejection of this new hostile act by the United States against the Caribbean as a whole."

Gil said that the assault on the Venezuelan fishing vessel not only represents a violation of sovereignty, but also evidences an attempt to "escalate the aggressions against our people".

The also Minister of Foreign Affairs described as invaluable Cuba's solidarity with Venezuela in the face of the new and illegal aggressions of the U.S. government.

It should be recalled that in blatant violation of international and territorial law, the U.S. maintains deployed, near the Venezuelan coasts, 8 military ships with missiles. As well as a nuclear-powered submarine under the argument of combating drug trafficking. "In the face of this illegal and infamous aggression, President Nicolás Maduro considers that the objective is to propitiate a war in the South American country", it is pointed out.

Cuban President Miguel Díaz-Canel condemned on Sunday, for his part, the assault on a Venezuelan fishing boat by a US Navy destroyer and called this imperial aggression a "cowardly and dangerous provocation".

"We condemn the assault on a Venezuelan fishing boat by U.S. military in the Exclusive Economic Zone of #Venezuela, an illegal act, contrary to international law, and a cowardly and dangerous provocation," he wrote through his X account. Likewise, the Cuban president stated that the assault constitutes an illegal act. At the same time, he affirmed that Latin America and the Caribbean is a zone of peace.

It should be noted that this Saturday, the Venezuelan government denounced that the US ship USS Jason Dunham held for eight hours a "small and harmless vessel" that was sailing "48 nautical miles northeast of La Blanquilla Island", in waters that correspond to the country's Exclusive Economic Zone.

In this sense, Venezuela demanded Washington to immediately cease these actions which put at risk the security and peace of the Caribbean.

Classification

Language: ENGLISH

Publication-Type: Newspaper

EXHIBIT D

Caracas condemns US for seizing fishing boat in Venezuelan waters

Jamaica Observer

September 13, 2025 Saturday

Copyright 2025 Factiva®, from Dow Jones
All Rights Reserved



Copyright © 2025 Jamaica Observer. All Rights Reserved.

Length: 299 words

Body

CARACAS, Venezuela (AFP)-Venezuela on Saturday hit out at the United States for allegedly seizing a fishing boat for eight hours in its exclusive economic zone, as the US military patrols the Caribbean to target drug cartels.

The vessel carrying nine fishermen was "illegally and hostilely" detained on Friday by the USS Jason Dunham, a destroyer, the foreign ministry in Caracas said in a statement.

"The warship deployed 18 armed agents who boarded and occupied the small, harmless boat for eight hours," the statement said, calling the incident a "direct provocation through the illegal use of excessive military means."

Those who ordered the seizure "are looking for an incident to justify escalating war in the Caribbean, with the aim of regime change" in Caracas, the statement said.

It demanded that the United States "immediately cease these actions that endanger security and peace in the Caribbean."

Tensions between the two countries have soared in recent weeks after Washington deployed warships in the southern Caribbean, as Trump steps up pressure on Maduro.

The United States accuses the leftist leader of heading a cocaine trafficking cartel and recently doubled its bounty for his capture to \$50 million.

Earlier this month, US forces blew up an alleged drug boat in the Caribbean, killing 11 people. Trump said it belonged to the Tren de Aragua, a Venezuelan criminal organization he tied to Maduro.

Venezuela's Foreign Minister Yvan Gil shows a picture of a fishing boat during a press conference at the Ministry of Foreign Affairs in Caracas on September 13, 2025. Venezuela on Saturday hit out at the United States for allegedly seizing a fishing boat for eight hours in its exclusive economic zone, as the US military patrols the Caribbean to target drug cartels. Federico PARRA / AFP

Notes

EXHIBIT E

Boat Suspected of Smuggling Drugs Is Said to Have Turned Before U.S. Attacked It

The Trump administration has argued that the summary killing of 11 people it accused of running drugs was legal under the laws of war.



Listen to this article · 8:32 min [Learn more](#)



By Charlie Savage and Helene Cooper

Reporting from Washington

Sept. 10, 2025

A Venezuelan boat that the U.S. military destroyed in the Caribbean last week had altered its course and appeared to have turned around before the attack started because the people onboard had apparently spotted a military aircraft stalking it, according to American officials familiar with the matter.

The military repeatedly hit the vessel before it sank, the officials added, speaking on the condition of anonymity to discuss a sensitive matter. President Trump has said he authorized the strike and claimed the boat was carrying drugs.

The disclosures provide new details about a military operation that was a startling departure from using law enforcement means to interdict suspected drug boats. Legal specialists who have called it a crime to summarily kill suspected low-level smugglers as if they were wartime combatants said the revelations further undercut the administration's claim that the strike was legally justified as self-defense.

Mr. Trump announced the strike last week, saying it took place in international waters and had killed 11 people who he said were transporting drugs “heading to the United States” and were part of a Venezuelan gang, Tren de Aragua. He has not put forward evidence to support those assertions but has said “we have tapes of them speaking.”

While the White House has not provided a detailed legal rationale, it has put forward the outlines of a novel argument that using lethal military force was permissible under the laws of armed conflict to defend the country from drugs because 100,000 Americans die annually from overdoses. Secretary of State Marco Rubio said people suspected of smuggling drugs toward the United States pose “an immediate threat.” Mr. Trump, in a letter to Congress, justified the attack as a matter of self-defense.

Many legal specialists, including retired top military lawyers, have rejected the idea that Mr. Trump has legitimate authority to treat suspected drug smuggling as legally equivalent to an imminent armed attack on the United States. Even if one accepted that premise for the sake of argument, they added, if the boat had already turned away, that would further undermine what they saw as an already weak claim of self-defense.

“If someone is retreating, where’s the ‘imminent threat’ then?” said Rear Adm. Donald J. Guter, a retired top judge advocate general for the Navy from 2000 to 2002. “Where’s the ‘self-defense’? They are gone if they ever existed — which I don’t think they did.”

What you should know. The Times makes a careful decision any time it uses an anonymous source. The information the source supplies must be newsworthy and give readers genuine insight.

[Learn more about our process.](#)

Rear Adm. James E. McPherson, the top judge advocate general for the Navy from 2004 to 2006 who later served in the first Trump administration in several prominent civilian military roles, including general counsel of the Army, agreed.

“I would be interested if they could come up for any legal basis for what they did,” he said, adding, “If, in fact, you can fashion a legal argument that says these people were getting ready to attack the U.S. through the introduction of cocaine or whatever, if they turned back, then that threat has gone away.”

The White House did not directly address questions about the boat’s maneuvers or the nature of the strike, instead repeating the administration’s position on the attack. Mr. Trump “acted in line with the laws of armed conflict to protect our country” from “evil narco terrorists trying to poison our homeland,” said Anna Kelly, a White House spokeswoman.

Sean Parnell, the chief Pentagon spokesman, said, “This strike sent a clear message: If you traffic drugs toward our shores, the United States military will use every tool at our disposal to stop you cold.”



Mr. Trump posted a video on social media that he said showed an airstrike on a Venezuelan boat he asserted was transporting illegal narcotics. Truth Social, via Reuters

The U.S. Coast Guard, sometimes with help from the Navy, has frequently interdicted boats suspected of smuggling drugs in the Caribbean Sea, searched for illicit cargo, and — if its suspicions were accurate — arrested the people aboard for prosecution.

Mr. Trump has long wanted to take much harsher steps against drug trafficking, including saying that drug dealers should get the death penalty. In his first term, he praised President Rodrigo Duterte of the Philippines for doing an “unbelievable job on the drug problem” in the nation where Mr. Duterte’s government had approved the summary killing of suspected drug dealers. Mr. Duterte now faces charges of crimes against humanity at the International Criminal Court over his drug war.

After returning to office, Mr. Trump directed his administration to begin labeling various Latin American criminal gangs and drug cartels as terrorist organizations, breaking with the tradition of limiting that status to violent groups that are motivated by ideology rather than illicit profit. Legally, such a designation permits sanctions like freezing a group’s assets, but it does not create authorization to use military force against it.

In July, Mr. Trump signed a still-secret directive instructing the Pentagon to use military force against some of the criminal groups his team had designated as terrorist organizations. The attack on the boat last week appears to signal an opening phase of operations stemming from that directive.

Mr. Trump, in announcing the attack, posted a 29-second video on social media that edited together several clips of aerial surveillance. It showed a speedboat cutting through the water, with a number of people onboard, before an explosion.

But officials briefed on the strike said that the video does not tell the entire story. It does not show the boat turning after the people aboard were apparently spooked by an aircraft above them, nor does it show the military making repeated strikes on the vessel even after disabling it, the officials said.

Mr. Trump's aides have boasted that the operation is only the beginning of a war against suspected drug smugglers. Defense Secretary Pete Hegseth told reporters last week, "We smoked a drug boat, and there's 11 narco terrorists at the bottom of the ocean, and when other people try to do that, they're going to meet the same fate."

Adding to the legal controversy is uncertainty over what standards, if any, the Trump team has set for the strength of the intelligence about who and what is on a boat for the U.S. military to summarily kill everyone aboard. Mr. Trump joked last week that not just drug smugglers but also fishermen may now think twice about going to sea in the region.

"I think anybody that saw that is going to say, 'I'll take a pass,'" Mr. Trump said. "I don't even know about fishermen. They may say, 'I'm not getting on the boat. I'm not going to take a chance.'"

One open question is where the boat was headed. Mr. Rubio initially told reporters last week that it was probably headed toward Trinidad and Tobago or some other country in the Caribbean, but administration officials have since characterized it as destined for the United States.

Another is what it was carrying. Some have expressed doubts that a vessel of its size would need an 11-member crew. Senator Rand Paul, a Kentucky Republican who has called it "despicable and thoughtless" to glorify killing people accused of crimes without trials, has argued that if there were drugs, it was more likely cocaine than fentanyl — the drug most responsible for overdoses.

On Tuesday, Senator Jack Reed of Rhode Island, the ranking Democrat on the Senate Armed Services Committee, told CNN that the administration had provided no evidence that the boat was taking drugs to the United States.

"If there's a civilian boat that's suspected of anything, particularly in international waters, you have to make an attempt to stop the boat," he said, describing what he said was supposed to be standard rules of engagement. "You only fire, really, if fired upon."

The legal question is whether Mr. Trump can simply choose to reject that approach and shift the problem of drug smuggling from law enforcement rules to the harsher framework of wartime rules, especially when Congress has not authorized any armed conflict with gangs and cartels like Tren de Aragua.

Geoffrey Corn, a retired uniformed lawyer who was the Army's senior adviser for law-of-war issues, said he believed Mr. Trump's and Mr. Hegseth's order was not justified as an act of self-defense. He expressed concern that what he saw as an apparently illegal order was passed down through the military chain of command and carried out.

The apparent turning of the boat before the attack began, he said, reinforced that judgment.

"I think it's a terrible precedent," he said. "We've crossed a line here."

Julian E. Barnes contributed reporting.

Charlie Savage writes about national security and legal policy for The Times.

Helene Cooper is a Pentagon correspondent for The Times. She was previously an editor, diplomatic correspondent and White House correspondent.

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: Signs Of Retreat Before U.S. Fired

EXHIBIT F



[Redacted text]



[Redacted text]



[Redacted text]



[Redacted text]

[Redacted text]



Sept. 15, 2025, 5:33 p.m. ET
Eric Schmitt, Helene Cooper and Charlie Savage Reporting from Washington



U.S. strikes a second Venezuela boat, killing three, Trump says.



President Trump said that the strike on Monday occurred in international waters and that the boat was heading to the United States. Eric Lee for The New York Times

The U.S. military struck a boat for the second time this month, President Trump said on Monday, as his administration continued its deadly campaign against Venezuelan drug cartels that it has accused of bringing fentanyl into the United States.

The strike occurred in international waters and killed three people, Mr. Trump said in a social media post.

“This morning, on my Orders, U.S. Military Forces conducted a SECOND Kinetic Strike against positively identified, extraordinarily violent drug trafficking cartels and narcoterrorists in the SOUTHCOM area of responsibility,” Mr. Trump wrote, referring to the U.S. military’s Southern Command.

Mr. Trump claimed that the boat was heading to the United States and linked it to “drug trafficking cartels” that he said posed a threat to the country. The president said the people killed were “positively identified,” but he did not identify a specific organization with which they were alleged to be associated.

Mr. Trump also posted a 27-second video on social media that edited together several clips of aerial surveillance. It showed a speedboat bobbing in the water, before a fiery explosion engulfed the vessel. It was unclear what was on the boat.

The Pentagon on Monday offered no other details on the strike, referring to Mr. Trump’s social media post, although a Defense Department official separately said it was a Special Operations strike.

Legal specialists condemned the U.S. military action as illegal, as they had a similar first American attack on another vessel on Sept. 2.

“Trump is normalizing what I consider to be an unlawful strike,” said Rear Adm. Donald J. Guter, a retired top judge advocate general for the Navy from 2000 to 2002.

Earlier on Monday, before Mr. Trump announced the new strike, Venezuela’s president, Nicolás Maduro condemned the Sept. 2 attack as a “heinous crime” and “a military attack on civilians who were not at war and were not militarily threatening any country.” He said if the United States believed that the boat’s passengers were drug traffickers they should have been arrested, and accused the administration of trying to start a war.

Mr. Trump in July signed a still-secret order directing the Pentagon to begin using military force against certain Latin American criminal gangs and drug cartels. His administration also began stepping up rhetorical attacks on Mr. Maduro. And in

August, the U.S. Navy sent a heavy amount of firepower into the southern Caribbean Sea.

On Sept. 2, in what appeared to be the first act carrying out Mr. Trump's directive, the United States conducted a deadly military strike on a boat that had left Venezuelan waters. Announcing the strike, Mr. Trump said that the boat was carrying drugs for a gang and that 11 people were killed.

The U.S. military has not said what it has been using to attack the boats. The U.S. Navy has eight warships in the Caribbean, and the Pentagon has ordered armed MQ-9 Reaper drones and F-35 fighter jets, among other aircraft, to Puerto Rico. Defense Secretary Pete Hegseth and Gen. Dan Caine, the chairman of the Joint Chiefs of Staff, made an unannounced visit to Puerto Rico last week.

Congressional Democrats on Monday assailed Mr. Trump's order.

"President Trump's actions are an outrageous violation of the law and a dangerous assault on our Constitution," said Senator Jack Reed of Rhode Island, the senior Democrat on the Armed Services Committee. "No president can secretly wage war or carry out unjustified killings — that is authoritarianism, not democracy."

The Trump administration has not offered a detailed legal theory about why it is lawful — and not murder or a war crime — to summarily kill people who are suspected of a crime when the U.S. Navy and Coast Guard could instead have interdicted their boats and potentially arrested them for prosecution, as they have long done in the Caribbean.

But it has gestured at the outlines of a theory by arguing that drug smuggling amounts to an imminent threat at a time when some 100,000 Americans die each year from drug overdoses and saying that Mr. Trump has directed strikes at such vessels as a matter of national self-defense.

The White House also asserted that the first strike was consistent with the laws of armed conflict.

Specialists in the laws about use of force have strongly rejected that idea, noting that the crime of drug smuggling has never been seen as equivalent to an imminent armed attack that can trigger a right to use lethal force in self-defense, and that Congress has not authorized any armed conflict with drug cartels.

“The administration has not even seriously tried to present a legal argument to justify the premeditated killing of the people aboard these two vessels,” said Brian Finucane, a former State Department lawyer and specialist in the laws of armed conflict who has written critically about Mr. Trump’s earlier strike. “The U.S. president does not have a license to kill suspected drug smugglers on that basis alone.”

Top Trump administration officials — including Mr. Hegseth and Marco Rubio, the secretary of state and national security adviser — said after the first attack that there would be more. But amid the wave of criticism that Mr. Trump and Mr. Hegseth had given an illegal order, it had not been clear that would happen.

On Saturday, Venezuela’s government said that the U.S. Navy had, a day earlier, interdicted a fishing boat and detained nine fishermen for eight hours before letting them go. A Defense Department official later confirmed the basics of that incident, adding that Coast Guard law enforcement officials had boarded the boat.

Despite Venezuela’s complaints, the incident looked like a return to the normal means that the U.S. government has used in dealing with suspected drug smugglers. The suspicions the vessel was carrying drugs apparently proved unfounded, so the Navy and the Coast Guard let the people go without killing anyone.

The Trump administration has deemed several Latin American criminal gangs and drug cartels to be “terrorist” organizations — a move that broke new ground since they are motivated by illicit profit rather than ideological goals. On that contested basis, he and his aides have taken to referring to suspected drug smugglers as “narco-terrorists.”

In an interview with Newsmax released on Monday, Mr. Trump's top counterterrorism adviser, Sebastian Gorka, said that obtaining congressional authorization to use armed force against drug cartels was not possible because they are not nation-states. He did not explain why Congress was able to do that when it authorized armed force against Al Qaeda after the Sept. 11 terrorist attacks.

Mr. Gorka, echoing comments by Mr. Rubio, also pointed to the fact that the Trump administration had designated several groups as "foreign terrorist organizations" or F.T.O.s.

"What we are saying is: This is a war, the cartel started it and we're declaring war on you," Mr. Gorka said. "Now, that's difficult to do because they're not a nation-state. So the closest we can get to that is to use the F.T.O. designation, that you are an exigent threat to the United States, you are killing Americans in mass numbers, therefore we will take the fight to you."

As a matter of legal reality, the laws that enable the executive branch to designate foreign groups as "terrorists" authorize economic sanctions, like freezing assets. They do not convey legal authority to use wartime force — killing suspected associates of such groups as if they were wartime combatants on a battlefield — against them.

The second strike came after The New York Times reported that the boat destroyed on Sept. 2 had altered its course and appeared to have turned around before the attack started because the people onboard had apparently spotted a military aircraft stalking it, according to American officials familiar with the matter.

A 29-second video Mr. Trump released in announcing the Sept. 2 attack showed a speedboat in the water from different vantage points, with several people onboard before a fiery explosion engulfed the vessel. But the officials, who spoke on the condition of anonymity, said the clip had not shown the whole story, including the boat turning around and the repeated strikes on it even after it was disabled.

Legal specialists like Admiral Guter have said the apparent turning around of the boat further undermined the case using lethal force against it as self-defense.

Defense Department officials briefed some staff members and lawmakers with the Senate and House Armed Services Committees last week. Several of the officials said that the administration did not offer evidence of legal justification, other than Mr. Trump's assertion of "self-defense" for the first deadly strike.

Mary Ellen O'Connell, a University of Notre Dame professor of international law, said the new strike "appears as problematic as the first" and questioned whether Mr. Trump really knew who and what were on the boat, and where it was going.

"International lawyers uniformly found his first such attack on Sept. 2 unlawful," she said. "All of the criticism and warning of blowback has had no impact. People are dead again in killings that violate the law."

Speaking to reporters aboard Air Force One on Sunday night, Mr. Trump complained about the flow of drugs out of Venezuela, which he attributed to the group Tren de Aragua.

"They're trying to get out, but we're stopping them successfully at the border," he said.

He called Tren de Aragua, which the State Department in February designated a foreign terrorist organization, "probably the worst gang in the world."

The president has repeatedly alleged that Tren de Aragua is headed by Mr. Maduro. The U.S. intelligence community does not believe that assertion is accurate, according to a memorandum declassified in May.

[Show less](#)

ADVERTISEMENT