

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

WINSTON PINNOCK,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Charles L. Pritchard, Jr.
Federal Public Defender
Middle District of Florida

M. Allison Guagliardo
Assistant Federal Defender
400 N. Tampa Street, Suite 2700
Tampa, FL 33602
Telephone: (813) 228-2715
E-mail: allison_guagliardo@fd.org
Counsel of Record for Petitioner

QUESTIONS PRESENTED

1. Whether the prosecution of a foreign citizen on a foreign-registered boat for drug activity outside of and having no connection to the United States violates the Fifth Amendment’s Due Process Clause—a question that divides the Circuits?

2. Whether Congress’s authority “[t]o define and punish Piracies and Felonies committed on the high Seas,” U.S. Const. Art. I, § 8, cl. 10, permits it to criminalize drug conduct, having no connection to the United States, by a foreign citizen on a foreign-registered boat?

3. Whether Congress’s authority “[t]o define and punish Piracies and Felonies committed on the high Seas,” U.S. Const. Art. I, § 8, cl. 10, permits it to criminalize drug conduct committed within a foreign nation’s exclusive economic zone?

PARTIES TO THE PROCEEDING

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below:

United States of America

Winston Pinnock.

RELATED PROCEEDINGS

The following is a list of all proceedings in state and federal trial and appellate courts, including proceedings in this Court, that are directly related to the case in this Court:

United States v. Winston Pinnock, No. 25-10008, U.S. Court of Appeals for the Eleventh Circuit, Judgment entered on April 16, 2026, and Rehearing Denied on June 30, 2026.

United States v. Winston Pinnock, No. 8:24-cr-103-WFJ-SPF, U.S. District Court for the Middle District of Florida, Amended Judgment entered on January 6, 2025.¹

¹ Mr. Pinnock had two co-defendants, Albert Francis and Karl Sherwin McGlashan, Jr., in his district court case. Neither co-defendant appealed. *See* Docket, No. 8:24-cr-103-WFJ-SPF (M.D. Fla.).

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PETITION FOR A WRIT OF CERTIORARI

Winston Pinnock respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

ORDER AND OPINION BELOW

The Eleventh Circuit's opinion affirming Mr. Pinnock's conviction and sentence is provided in Petition Appendix A. The Eleventh Circuit's order denying Mr. Pinnock's timely filed petition for rehearing is provided in Petition Appendix B.

JURISDICTION

The Eleventh Circuit issued its opinion and judgment on April 16, 2026. Petition Appendix 1a, 10a. The Eleventh Circuit entered its order denying rehearing on June 30, 2026. *Id.* at 13a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Article I of the United States Constitution states that "Congress shall have Power . . . To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations." U.S. Const., Art. I, § 8, cl. 10.

The Fifth Amendment to the United States Constitution provides that “No person shall . . . be deprived of life, liberty, or property, without due process of law.”

The Maritime Drug Law Enforcement Act (“MDLEA”), 46 U.S.C. §§ 70501-70508, is provided in Petition Appendix C.

STATEMENT OF THE CASE

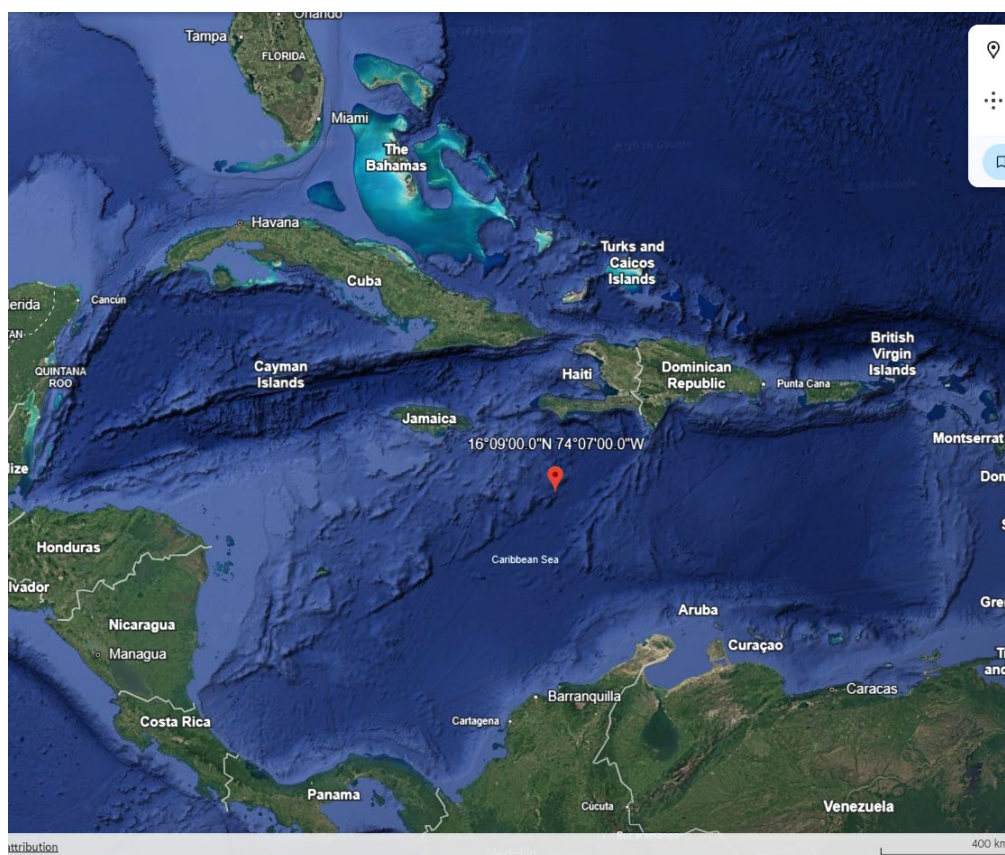
Mr. Pinnock is a foreign citizen who was on a foreign-registered boat with drugs that had no connection to the United States. He was prosecuted in the Middle District of Florida under the MDLEA and sentenced to 10 years in prison.

The U.S. government—concededly—has long brought foreign citizens to the Eleventh Circuit’s jurisdiction for prosecution because that appellate court, unlike the Ninth Circuit, does not require the government to prove any nexus between the drug conduct and the United States. *See* Seth Wessler, *The Coast Guard’s ‘Floating Guantánamos,’* New York Times Magazine, Nov. 20, 2017 (statement of Coast Guard lawyer, “We try not to bring these cases to the Ninth Circuit”).² Mr.

² Compare *United States v. Perlaza*, 439 F.3d 1149, 1160 (9th Cir. 2006) (“[W]here the MDLEA is being applied extraterritorially, as in this case, due process requires the Government to demonstrate that there exists ‘a sufficient nexus between the conduct condemned and the United

Pinnock respectfully requests this Court’s review to resolve whether such prosecutions may continue under our Constitution.

1. In February 2024, Petitioner, a Jamaican, was on board a Jamaican-registered boat about 180 nautical miles southeast of Jamaica, at the coordinates shown here:



States’ such that the application of the statute would not be arbitrary or fundamentally unfair to the defendant.”) (citing Ninth Circuit precedent), *with United States v. Castillo*, 899 F.3d 1208, 1211, 1214 (11th Cir. 2018) (“[W]e have rejected the argument that the Due Process Clause requires the government to prove a ‘nexus between the United States and a defendant’ in a prosecution under the [MDLEA].”) (citing Eleventh Circuit precedent).

Doc. 39-1 at 1-2; Doc. 111 at 22-23.³ After a helicopter crew from the U.S.S. *Leyte Gulf* spotted the boat, the U.S. Coast Guard gained control of it and found three men on board, including Mr. Pinnock. Doc. 111 at 22-23.

Mr. Pinnock claimed Jamaican nationality for the boat, and the Government of Jamaica confirmed its registry. *Id.* at 23; *see* Doc. 39-1 at 1. Jamaica also authorized U.S. law enforcement to board and search the vessel. Doc. 111 at 23. The Coast Guard recovered packages that had been thrown overboard, which contained 429 kilograms of cocaine. Doc. 111 at 22-23, 29; *see* Doc. 89 (PSR) ¶ 18. Nearly three weeks later, Jamaica waived its primary right to exercise jurisdiction over the boat, the cargo, and the crew. Doc. 111 at 23-24; Doc. 39-1 at 2.

Mr. Pinnock and the other two men were then charged under the MDLEA in the Tampa Division of the Middle District of Florida. Docs. 1, 5. The indictment alleged that Mr. Pinnock and his co-defendants, while upon the “high seas” and on a “vessel subject to the jurisdiction of the United States,” conspired to possess with the intent to distribute five

³ “Doc.” references the district court docket entries. “App. Doc.” references the appellate court docket entries.

kilograms or more of cocaine (Count One), and possessed with the intent to distribute five kilograms or more of cocaine (Count Two). Doc. 5 at 1-2.

Mr. Pinnock pleaded guilty to both counts but, in entering his plea, made clear that he was not coming to the United States with the drugs. Doc. 111 at 33 (“I wasn’t coming to the U.S. with it”). The court advised Mr. Pinnock, consistent with Eleventh Circuit precedent, “It’s not an essential element that you intended to distribute the cocaine in the United States, just that you intended to distribute the cocaine.” *Id.* at 33-34; *see id.* at 34-36 (counsels’ discussion, including government’s explanation that “in terms of any questions about coming to the United States and nexus requirement, especially here in the Eleventh Circuit, . . . it’s not needed and not part of the essential elements”).

The district court thereafter sentenced Mr. Pinnock to 120 months in prison, an upward variance, and five years of supervised release. Doc. 112 at 9. In selecting that sentence, the court cited Mr. Pinnock’s 12-year-old marijuana MDLEA offense, for which he was sentenced to time served. *Id.* at 7, 9; Doc. 89 (PSR) ¶ 30. Mr. Pinnock will not be released from the 120-month term imposed in the instant case until 2032. *See* Bureau of Prisons, bop.gov/inmateloc (Reg. No. 98685-004).

2. In this direct appeal, Mr. Pinnock challenged his MDLEA convictions, arguing that Article I and the Due Process Clause require a nexus between the offense and the United States and that he could not be prosecuted for conduct in Jamaica’s exclusive economic zone (“EEZ”). He acknowledged that binding Eleventh Circuit precedent foreclosed each argument. He also challenged the substantive reasonableness of his upward-variance sentence. App. Docs. 25, 33.

The Eleventh Circuit affirmed his convictions and sentence. *See* Petition Appendix A. As to the constitutional challenges to his convictions, the appellate court relied on its “binding caselaw on these issues.” *Id.* at 2a-3a & n.2 (collecting cases).

On June 5, 2026, Mr. Pinnock timely petitioned for panel rehearing on his sentencing challenge. App. Docs. 42, 43. The Eleventh Circuit denied his petition. *See* Petition Appendix B.

REASONS FOR GRANTING THE WRIT

I.

This Court's review is needed to resolve whether the Constitution permits the prosecution of foreign citizens, who were on foreign-registered boats, for drug conduct having no connection to the United States

Mr. Pinnock is a foreign citizen who was on a foreign-registered boat with drugs far outside the United States' waters. He is now serving 10 years in federal prison, even though his drug conduct had no connection to our country. As Mr. Pinnock made clear, he "wasn't coming to the U.S." with the drugs. Doc. 111 at 33. The questions presented here are whether his prosecution accords with Article I and the Due Process Clause of the U.S. Constitution.

A. The circuits are split on whether the Due Process Clause requires the government to prove a nexus between the drug conduct and the United States when prosecuting a defendant, like Mr. Pinnock, who was on a foreign-registered boat

In MDLEA cases involving conduct on board foreign-registered vessels, the Ninth Circuit has held that "due process requires the Government to demonstrate that there exists a sufficient nexus between the conduct condemned and the United States such that the application

of the statute would not be arbitrary or fundamentally unfair to the defendant.” *United States v. Perlaza*, 439 F.3d 1149, 1160 (9th Cir. 2006) (internal quotation marks omitted); see *United States v. Zakharov*, 468 F.3d 1171, 1177 (9th Cir. 2006) (“To accord with due process, we require a sufficient nexus between the United States and the defendant’s activities before exerting jurisdiction over foreign vessels.”).⁴ Other circuits, including the Eleventh Circuit, do not impose this requirement. Petition Appendix 2a; *United States v. Castillo*, 899 F.3d 1208, 1211, 1214 (11th Cir. 2018); see, e.g., *United States v. Cardales*, 168 F.3d 548, 552-53 (1st Cir. 1999); *United States v. Perez-Oviedo*, 281 F.3d 400, 402-03 (3d Cir. 2002); *United States v. Suerte*, 291 F.3d 366, 372-77 (5th Cir. 2002).

Recently, this Court declined “to delineate the outer bounds of the Federal Government’s power, consistent with due process, to hale foreign defendants into U.S. courts.” *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 18 (2025). Although the private plaintiffs pressed an “unbounded jurisdictional theory,” the Court in *Fuld* could resolve the Due Process

⁴ The Ninth Circuit’s exception for stateless vessels, *Perlaza*, 439 F.3d at 1161, is not implicated here. Mr. Pinnock was on a Jamaican-registered boat. Doc. 39-1 at 1.

Clause question arising from a federal civil statute, which subjects respondents to civil suit for terrorist acts injuring Americans, because the statute “ties federal jurisdiction to conduct closely related to the United States that implicates important foreign policy concerns.” *Id.* at 18, 20-21. But the MDLEA, by contrast, requires no tie between the defendants’ conduct and the United States. *See* Petition Appendix C (46 U.S.C. §§ 70502, 70503, 70506). The question of the “outer bounds of the Federal Government’s power” is thus at issue here.

Mr. Pinnock accordingly requests this Court’s review to resolve the circuit split. Because he was brought to the Eleventh Circuit, the U.S. government was able to convict him even though his conduct had no connection to the United States. His case squarely presents the question of whether the government possesses this power.

B. Congress lacks authority under Article I’s Felonies Clause to criminalize drug conduct, having no connection to the United States, by a foreign citizen on a foreign-registered boat

Mr. Pinnock’s prosecution also raises the related, threshold question of whether Congress’s power “[t]o define and punish Piracies and Felonies committed on the high Seas” permits it to criminalize drug conduct by a foreign citizen on a foreign-registered boat when that

conduct has no connection to the United States. U.S. Const. Art. I, § 8, cl.10 (referred to herein as the “Define and Punish” or “Felonies” Clause). Although the lower courts have recognized that Congress may reach conduct committed on stateless vessels,⁵ the question of whether Congress may reach such conduct on foreign-registered vessels persists.⁶

If, as this Court has reasoned, Congress lacks the authority to reach a foreigner who murders another foreigner on a foreign ship, it is difficult to see how Congress can reach a foreigner, like Mr. Pinnock, on a foreign ship for drugs having no connection to the United States. *See United*

⁵ *See, e.g., United States v. Aybar-Ulloa*, 987 F.3d 1, 6-9 (1st Cir. 2021) (en banc) (summarizing “the longstanding unanimity among United States courts” as to jurisdiction over stateless vessels but noting “there is no unanimity among scholars on this point”).

⁶ *See, e.g., id.* at 15 (Barron, J., concurring in the judgment) (“There is a fair amount of support for the contention that Article I’s Define and Punish Clause is impliedly limited by the law of nations in ways that constrain Congress’s authority to rely on that Clause to subject foreign nationals to our criminal laws for conduct that they engage on while they are on foreign vessels -- even when those vessels are on the high seas.”); *United States v. Angulo-Hernandez*, 576 F.3d 59, 62-63 (1st Cir. 2009) (Torruella, J., dissenting from denial of en banc review) (“The MDLEA, as applied without a [U.S.] nexus requirement, cannot be legitimately based on the ‘Piracy and Felonies’ clause”); Eugene Kontorovich, *The Piracies and Felonies Clause*, in *The Heritage Guide to the Constitution* 188 (Josh Blackman & John G. Malcolm eds., 3d ed. 2025) (“Questions have emerged about Congress’s ability to use the power to legislate against maritime drug trafficking with no connection to the United States.”).

States v. Furlong, 18 U.S. (5 Wheat.) 184, 197-98 (1820) (addressing the offense of murder when “committed within the jurisdiction, or, (what is the same thing,) in the vessel of another nation” and concluding Congress would have “no right to interfere” with that “offence committed by a foreigner upon a foreigner in a foreign ship”); Eugene Kontorovich, *The “Define and Punish” Clause and the Limits of Universal Jurisdiction*, 103 Nw. U. L. Rev. 149, 185-93 (2009) (“Kontorovich, *The Define and Punish Clause*”) (discussing *Furlong* and other early decisions).

Historical sources further support that Congress does not have general police power over conduct committed on foreign vessels. In a speech given to Congress in 1800, John Marshall argued:

[T]hat clause in the Constitution, which enables Congress to define and punish piracies and felonies committed on the high seas, . . . can never be construed to make to the government a grant of power, which the people making it do not themselves possess. . . . [T]he people of the United States have no jurisdiction over offences committed on board a foreign ship against a foreign nation. Of consequence, in framing a government for themselves, they cannot have passed this jurisdiction to that government.

Kontorovich, *The Define and Punish Clause* at 170 (quoting 10 Annals of Cong. 607 (1800)). In 1818, the government similarly took the position before this Court that “[a] felony, which . . . was not [piracy] by the law of nations, cannot be tried by the courts of the United States, if committed

by a foreigner on board a foreign vessel, on the high seas.” *United States v. Palmer*, 16 U.S. (3 Wheat.) 610, 620 (1818) (argument for the United States); see *Aybar-Ulloa*, 987 F.3d at 16 n.7 (Barron, J., concurring in the judgment). And in 1820, Congress itself recognized the limits of its power under the Define and Punish Clause; when it criminalized slave trade offenses on board vessels as a form of piracy, it did so only where there was a nexus to American citizens. See Eugene Kontorovich, *Beyond the Article I Horizon: Congress’s Enumerated Powers and Universal Jurisdiction Over Drug Crimes*, 93 Minn. L. Rev. 1191, 1215-17 (2009) (“Kontorovich, *Beyond the Article I Horizon*”).

Congress did not criminalize drugs on board foreign vessels until more than 200 years after this country’s founding. See Petition Appendix 14a (referencing the MDLEA’s predecessor statutes enacted in 1980). Continuing to permit Congress to act under an unbounded interpretation of its Define and Punish Clause power risks affording Congress a general police power over foreign citizens on foreign boats for any conduct regardless of its lack of nexus to the United States. Cf. *Bastón v. United States*, 137 S. Ct. 850, 853 (2017) (Thomas, J., dissenting from the denial of certiorari) (expressing that the Foreign Commerce Clause “does not confer upon Congress a virtually plenary

power over global economic activity”). In Mr. Pinnock’s case, he was sentenced to 10 years in federal prison for having drugs on a foreign boat, even though he was not coming to the United States with them. Doc. 111 at 33. Given the importance of this question on the limits of Congress’s Article I authority, Mr. Pinnock requests this Court’s intervention.

II.

Congress’s power “[t]o define and punish . . . Felonies committed on the high Seas,” does not authorize the United States to criminalize conduct by foreign nationals in a foreign nation’s exclusive economic zone

The plain text of Article I, § 8, cl. 10 limits Congress’s power to define and punish felonies “committed on the high Seas.” The final question presented is whether Congress may criminalize conduct occurring within another country’s exclusive economic zone.

A country’s exclusive economic zone is “explicitly no longer treated as part of the high seas regime.” Kontorovich, *Beyond the Article I Horizon* at 1233 & n.278; see Katrina M. Wyman, *Unilateral Steps to End High Seas Fishing*, 6 Tex. A&M L. Rev. 259, 260 (Fall 2018) (noting that “[t]he high seas [are] defined as the waters beyond these EEZs”); Horace B. Robertson, *Naval War College International Law Studies* 64-385 at 6

(2014) (defining the “high seas” to “include all parts of the ocean seaward of the exclusive economic zone”); *United Nations Convention on the Law of the Sea* (“UNCLOS”), Art. 86, 1833 U.N.T.S. 3 (1982) (stating for Part VII, “HIGH SEAS,” that “[t]he provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State”) (emphasis added).⁷ In this case, the Coast Guard took control of Mr. Pinnock’s Jamaican-registered boat within Jamaica’s exclusive economic zone. Doc. 39-1 at 1; Doc. 111 at 22-23; *see* UNCLOS, Art. 57 (providing for a 200-nautical mile EEZ).

Mr. Pinnock’s case thus also squarely presents the question whether Congress may reach his conduct within another country’s EEZ. Because this question has frequently occurred, he respectfully asks for this Court’s review. *See, e.g., United States v. Canario-Vilomar*, 128 F.4th 1374, 1381-82 (11th Cir.) (applying prior precedent rule to this question), *cert. denied*, 146 S. Ct. 269 (2025).

⁷ *See also Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 380 (2024) (recognizing that “[b]efore 1976 . . . international waters . . . began just 12 nautical miles offshore” and Congress thereafter codified the United States’ EEZ).

CONCLUSION

For the foregoing reasons, the petition should be granted.

Respectfully submitted,

Charles L. Pritchard, Jr.
Federal Public Defender
Middle District of Florida

/s/ M. Allison Guagliardo
M. Allison Guagliardo
Florida Bar No. 0800031
Assistant Federal Defender
400 North Tampa Street, Suite 2700
Tampa, Florida 33602
Telephone: (813) 228-2715
Email: allison_guagliardo@fd.org
Counsel of Record for Petitioner