

Sailor Mongering

COLLEEN BERRY, EDITOR-AT-LARGE OF the American Constitution Society's blog, recently posted a report on the law of sailor mongering, 28 U.S.C. § 2279. For readers who are not up to speed on this important area of federal criminal law, consider the following explanation of the law from a recent (at least for the law of sailor mongering) application of the law, an 1890 opinion from the federal circuit court for the District of Oregon, in *United States v. Sullivan*, 43 F. 602:

The evil which this section is intended to prevent and remedy is apparent, and in this district notorious. For instance, lawless persons, in the interest or employ of what may be called "sailor-mongers," get on board vessels bound for Portland as soon as they get in the Columbia river, and by the help of intoxicants, and the use of other means, often savoring of violence, get the crews ashore, and leave the vessel without help to manage or care for her. The sailor thereby loses the wages of the voyage, and is dependent on the boarding-house for the necessaries of life, where he is kept, until sold by his captors to an outgoing vessel, at an enormous price.

Berry reports on the only 21st-century application of the law so far (it appears to have skipped the 20th century):

On April 12, 2002, two Greenpeace activists climbed aboard a cargo ship that was three miles off the coast of Miami. The activists wore shirts that read, "Greenpeace Illegal Forest Crime Unit," and their goal was to hang a banner on the ship that read, "President Bush: Stop Illegal Logging." The U.S.-bound ship that the activists had targeted was carrying mahogany wood that had been illegally harvested in Brazil. But before the activists were able to unfurl their banner, the U.S. Coast Guard arrested them and detained them for the weekend. The ship subsequently unloaded 70 tons of the contraband mahogany in Charleston, South Carolina.

Greenpeace had anticipated that the activists would be arrested for boarding the ship. What they did not fore-

see was Attorney General John Ashcroft indicting the entire Greenpeace organization 15 months later. The indictment accused Greenpeace of conspiring to commit a crime – sailor mongering – by illegally boarding a ship. ... In April 2004, Judge Adalberto Jordan granted Greenpeace’s motion for a jury trial. In granting the motion, Judge Jordan noted, “The prosecution has generated charges that the indictment of Greenpeace is politically motivated due to the organization’s criticism of President Bush’s environmental policies.” He further stated, “It is not a good sign when the government resorts to defining a phrase by repeating the phrase itself.”

The first day of trial was May 18, 2004. On May 19, after hearing only the prosecution’s presentation of evidence, Judge Jordan directed the verdict in favor of Greenpeace, holding that there was insufficient evidence for the case to proceed to a jury. But the judge did warn Greenpeace that the organization is now on notice that the law exists. Characterizing the case as a national security issue, U.S. Attorney’s Office spokesman Carlos Castillo stated in response to the verdict that his office “remains undeterred in prosecuting those persons who illegally attempt to board ships at the Port of Miami or otherwise threaten port security.” Sailor-mongers beware.

Colleen Berry, “Sailor Mongering” Resurfaces in Greenpeace Lawsuit, www.acsblog.org (Dec. 14, 2004).

