



Monthly

Bulletin

Environmental Crimes Section

August 2018

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At the conclusion of *U.S. v. Leckelt et al.* (E.D. Tex.), approximately 37 alligator snapping turtles were rescued from ponds located on the defendants' property. The [U.S. Fish and Wildlife National Fish Hatchery in Natchitoches, Louisiana](#), has been caring for 149 eggs. To date, 20 have hatched and will be part of brood stock for a new breeding program. The turtles will be kept in captivity for four years to increase their chances for survival, before being released into the wild.

District/Circuit	Case Name	Case Type/Statutes
Ninth Circuit Court of Appeals	United States v. Byler United States v. Obendorf	Sewage Discharge/Refuse Act Baiting/MBTA
██████████ ██████	████████████████████	████████████████████
District of Alaska	United States v. Jon Nichols et al.	Sea Lion Deaths/MMPA, Obstruction
Central District of California	United States v. CG Roxane LLC d/b/a Crystal Geyser et al. United States v. Shawn N. Lee ████████████████████	Drinking Water/HMTA, RCRA Asian Arowana Shipment/Smuggling ████████████████████
Eastern District of California	United States v. Everado Cuadro Campos ████████████████████ United States v. Saul Arreola-Cardenas United States v. Raul Cardenas-Solis United States v. Thomas Lee Crow	Marijuana Grow/Conspiracy, Drugs, Depredation to Natural Resources Cock Fighting/Animal Fighting Venture
Middle District of Florida	United States v. Patrick W. Riley	Dog Fighting/Conspiracy
Southern District of Florida	United States v. Juan Carlos Rodriguez United States v. Hovary Muniz United States v. Alberto Corbo Martinez	Migratory Bird Sales/False Statement, MBTA, Smuggling
District of Hawaii	United States v. Hai Soon Ship Management	Vessel/ APPS, False Statement
Southern District of Indiana	United States v. Kevin Cleveland	Petroleum Transportation/ HMTA
District of Kansas	United States v. Ahmed el-Sherif	Radioactive Chemicals/RCRA

District/Circuit	Case Name	Case Type/Statutes
Western District of Kentucky	United States v. Charley Barber et al.	Mine Safety Procedures/ Conspiracy
[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]
District of Nevada	United States v. Trenton Sargent et al.	Damage to National Park/ESA, Firearms
Western District of New York	United States v. Margaret M. Tobin	False Training Documents/ Possession of Unlawful Identification
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED] [REDACTED] [REDACTED]
Eastern District of Pennsylvania	United States v. David Sommers	Turtle Shipments/Lacey Act, Smuggling
Middle District of Pennsylvania	United States v. John Joseph et al.	Vehicle Emissions Testing/ Conspiracy
District of Puerto Rico	United States v. Ehbrin Castro-Correa	Dog Fighting/ Animal Fighting Venture, Welfare
District of South Dakota	United States v. Melinda Sue Relf United States v. Arvella Pomani United States v. Kenneth Foster d/b/a/ Rapid Pawn United States v. Jorge Pena	Eagle Parts Trafficking/Lacey Act, MBTA
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]

Decisions

***United States v. Byler*, 727 Fed. Appx. 409 (9th Cir. Jun. 20, 2018).**

On June 20, 2018, the Ninth Circuit Court of Appeals affirmed Darren K. Byler's conviction for violating the Refuse Act, 33 U.S.C. §§ 407, 411, and for making a false statement during the course of the investigation, 18 U.S.C. § 1001. Byler discharged thousands of gallons of sewage from the *Wild Alaskan*, a floating strip club, into Kodiak Harbor. The Court held that (1) the Refuse Act prohibits the dumping of "sewage," (2) there is no obvious "de minimis" exception to the Refuse Act, and (3) Byler's prosecution was not selective enforcement in violation of the First Amendment.

Byler first argued that the Refuse Act does not criminalize the dumping of human waste, because it provides an exception for refuse "flowing from . . . sewers and passing therefrom in a liquid state." 33 U.S.C. § 407. The Court rejected this argument on the basis that Byler's sewage was not "*flowing from sewers*," (emphasis added) but *directly* discharged into the harbor, and thus did not fall within the exception.

In response to Byler's argument that the refuse was "de minimis," the Court disagreed stating there is no exception for de minimis deposits. Also, because the defense did not raise this issue at trial, it can only prevail "if the asserted error was so obvious that the district court should have raised the issue sua sponte." The Court found no "obvious" de minimis exception. Citing evidence at trial that proved Byler actually discharged thousands of gallons of sewage, the Court said, "[t]hat amount is not de minimis under any standard."

Lastly, Byler claimed a First Amendment infringement by selective prosecution of the Refuse Act in order to target his unwanted business. The Court again rejected Byler's argument for failing to meet the "demanding" standard for proving discriminatory effect and motive.

***United States v. Obendorf*, 894 F. 3d 1094 (9th Cir. July 9, 2018).**

On July 9, 2018, the Ninth Circuit Court of Appeals issued a precedential opinion affirming a conviction of illegal baiting of migratory game birds and conspiring to do the same. At issue was whether a regulatory exception to unlawful "take" — the Agricultural Practice Exception—(Exception) applied only to hunters or also to baiters under the Migratory Bird Treaty Act. The government argued on appeal that the Exception did not apply to baiters and won on that issue. During trial, however, all the parties assumed that the Exception was available to baiters. The jury instructions required the government to prove not only that the defendant intentionally baited his farm, but that his conduct would also not fall within the Agricultural Practice safe harbor for "normal" farming practices.

The defendant then argued on appeal that the district court made a series of reversible evidentiary rulings regarding that safe harbor. On appeal, the government defended those rulings, but also argued that the safe harbor should never have been applied to the defendant in the first place. In other words, the prosecution erroneously took on a greater burden by proving an unnecessary element. The defendant countered that this error was prejudicial because the government essentially invited him to rely on a safe

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harbor (which the government later claimed was unavailable), and that he would have adopted a different trial strategy had he known that the true elements of the crime were different than what had been presented in the indictment and jury instructions. While noting that the government's argument on appeal was new, the Court of Appeals exercised its discretion to hear this purely legal issue, to help clarify the law. The court then agreed that the Exception applied only to hunters and not to baiters. Thus, while a person could avoid prosecution for hunting over a farmer's field (if the field appeared in accordance with normal agricultural practices), a farmer could still be prosecuted if he purposefully baited that same field for hunters.

The Court concluded that the misapprehension of the law that occurred was harmless error, because evidence of the defendant's guilt was overwhelming, notwithstanding his numerous attempts to persuade the jury that he lacked the requisite intent and was framed. In a separate unpublished decision, the panel also affirmed the district court's admission of co-conspirator conduct under the *Pinkerton* doctrine. And, although the defendant argued that he would be the first person to serve time for a baiting violation, the Court concluded that his fifteen-day sentence (and related fine, probation, and wildlife restrictions) was substantively reasonable.

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Trials

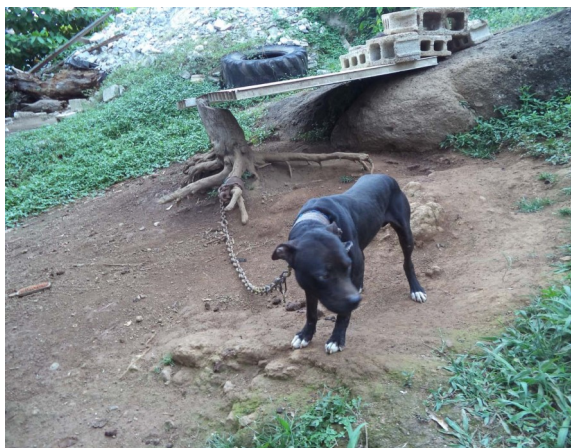
***United States v. Ehbrin Castro-Correa*, No. 3:16-CR-00153 (D.P.R.), AUSA Scott H. Anderson.**

On July 31, 2018, following a two-day trial and 20 minutes of deliberation, a jury found Ehbrin Castro-Correa guilty of possessing and training an animal for purposes of having the animal participate in an animal fighting venture (7 U.S.C. § 2156 (b); 18 U.S.C. § 49(a)).

Evidence showed that in June 2017, with jury selection about to begin, Castro-Correa pleaded guilty to the charges. At sentencing, however, he refused to take responsibility for his crime. The court vacated the defendant's guilty plea and then set the case back on the trial schedule.

In January 2016, the defendant took a cellphone video of his dog and another dog engaged in a brutal and bloody dog fight in Juncos. The video was discovered when his phone was searched at the Pan American dock as he attempted to transport six canines to the Dominican Republic for fights. The Dominican Republic is a notorious worldwide haven for dog fights. This discovery led to agents executing a search warrant at his residence, seizing 25 dogs, along with training materials, equipment and drugs used to treat their wounds.

This case was investigated by Immigration and Customs Enforcement Homeland Security Investigations.



Dog tied to tree stump

***United States v. Ahmed el-Sherif*, No. 2:17-CR-20006 (D. Kan.), ECS Senior Counsel Kris Dighe, ECS Trial Attorney John Arbab, AUSA Anthony Mattivi, and ECS Law Clerk Fred Ingram.**

On July 26, 2018, the court ruled on the Findings of Fact/Conclusions of Law, finding Ahmed el-Sherif guilty for violating the Resource Conservation and Recovery Act (RCRA). He was acquitted on the obstruction charge.

El-Sherif formerly owned and operated the Beta Chem Laboratory, a radioactive pharmaceutical synthesis lab licensed by the Kansas Department of Health and Environment (KDHE) to use Carbon-14 to tag chemicals for pharmaceutical companies to incorporate into their experimental drugs. Pharmaceutical companies used Carbon-14 tagged drugs to observe where in the body the drugs traveled and remained. El-Sherif used numerous solvents in the process, many of which were ignitable, reactive, and toxic.

In the mid-2000s, state officials determined that the Beta Chem lab had become

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Trials

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contaminated with radioactive material and suspended its license. The EPA at that time determined that el-Sherif was not conducting waste characterizations as required by RCRA. KDHE attempted to work with el-Sherif to address the radiation contamination until October 2013, when it took control of the lab. They entered into a consent agreement in which he agreed to make a plan to remediate and dispose of the radioactive waste. While he engaged a number of consultants, el-Sherif did not hire any of them to clean up the lab.

After the facility was closed, extensive contamination was found throughout the lab, in the lavatory, the office, and in outside soils. The U.S. EPA and the FBI executed a search warrant in January 2014, finding incompatible waste chemicals in close proximity that could have ignited, flammables that were not properly secured, and one chemical for which the bomb squad responded. Investigators identified more than a thousand containers of chemicals, most of which held RCRA ignitable, reactive, toxic, and listed hazardous wastes. Most of the containers also were contaminated with radioactive material. After the EPA remediated the hazardous waste at the lab, it began an assessment of el-Sherif's ability to pay for the cleanup and/or a penalty. The EPA's Superfund program spent more than \$760,000 to remove and dispose of the hazardous waste.

This case was investigated by the U.S. EPA Criminal Investigation Division and the Federal Bureau of Investigation.

This case was investigated by the U.S. Forest Service and the California Department of Fish and Wildlife.

[illegible]

Indictments/Informations

***United States v. Saul Arreola-Cardenas*, No. 1:18-CR-00159 (E.D. Calif.), AUSA Angela Louise Scott.**

On July 19, 2018, prosecutors filed a three-count indictment charging Saul Arreola-Cardenas with conspiracy to grow marijuana with the intent to distribute, and damage to public lands and natural resources (21 U.S.C. §§ 841, 846; 18 U.S.C. § 1361).

According to the indictment, after receiving a tip regarding a possible grow area, officers apprehended Arreola-Cardenas on July 12, 2018, in the Sequoia National Forest. Agents found the defendant carrying buckets on a trail near the site. Upon further investigation of the site, they found approximately 1,400 plants, thousands of pounds of trash, irrigation hoses, camping equipment, fertilizer, and pesticides. Native trees, brush, and other vegetation were cut down near the grow site, and wildlife had been killed as well.

This case was investigated by the U.S. Forest Service with assistance from the Kern County Sheriff's Office, and the U.S. Immigration and Customs Enforcement.

***United States v. CG Roxane LLC dba Crystal Geyser, et al.*, No. 2:18-CR-00448 (C.D. Calif.), AUSAs Dennis Mitchell and Erik Silber.**

On July 18, 2018, prosecutors filed a-16 count indictment against CG Roxane, LLC, (dba Crystal Geyser), United Pumping Service, Inc., and United Storm Water, Inc. The companies are charged with unlawful transportation of hazardous waste, transporting hazardous waste to an unpermitted facility, and omitting information and making false statements on manifests used to transport and dispose of hazardous waste in violation of the Resource Conservation and Recovery Act (RCRA) and the Hazardous Materials Transportation Act (HMTA) (42 U.S.C. §§ 6928(d)(3), (d)(1); 49 U.S.C. § 5124).

Crystal Geyser is a drinking water company. United Pumping Service provided transportation services for customers who needed to transport their hazardous and non-hazardous waste, and United Storm Water furnished, among other things, environmental and lake draining services.

According to the indictment, Crystal Geyser drew water from underground wells that contained naturally-occurring arsenic, using sand filters to reduce the concentration of arsenic. To ensure the efficiency of the sand filters, Crystal Geyser cleaned them by back-flushing them with a hydroxide-and-water solution. This process generated thousands of gallons of arsenic-contaminated wastewater. Crystal Geyser discharged that wastewater into a nearby manmade pond known by employees as "Arsenic Pond." Testing by the California Department of Toxic Substances Control in the fall of 2014 determined that the wastewater stored in the pond was a RCRA hazardous waste.

In March 2015, the three companies allegedly illegally transported several thousand gallons of this contaminated wastewater to a hazardous waste facility, but failed to disclose the arsenic content on the manifest. In April 2015, DTSC instructed Crystal Geyser to remove the wastewater from the pond and transport it, using a hazardous manifest, to a facility authorized and permitted to accept hazardous waste. The indictment alleges that

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between May 11 and May 14, 2015, Crystal Geyser, United Pumping, and United Storm Water knowingly transported the liquid contents from the pond to an unpermitted facility.

This case was investigated by the U.S. EPA Criminal Investigation Division and the U.S. Department of Transportation Office of Inspector General, with assistance from the California Department of Toxic Substances Control.

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United States v. Charley Barber et al., No. 4:18-CR-00015 (W.D. Ky.), AUSAs Randy Ream and Corinne Keel, and SAUSAs Mary Sue Taylor and Jason Grover.

According to the indictment, between January 2013 and August 2015, the defendants knowingly and willfully altered the company's required dust-sampling procedures, by circumventing the dust-sampling regulations, submitting false samples, and by making false statements on certification cards. The dust-sampling procedures are mandatory health and safety standards designed to protect the nation's miners from pneumoconiosis, commonly known as "black lung," and silicosis the most common coal-mine dust-caused diseases. Chronic exposure to respirable coal mine dust causes lung diseases that can lead to permanent disability and death. By circumventing the dust sampling procedures, Armstrong Coal and its co-conspirators, avoided implementing

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Indictments/Informations

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ventilation and production controls that might cost more or lower production, and thus were able to save money at the expense of exposing the Parkway and Kronos miners to the risks of breathing air with elevated levels of respirable coal dust.

Individuals charged are: Charley Barber, former Superintendent of Parkway Mine; Brian K. Casebier, former Safety Director at Parkway Mine; Steven Demoss, former Assistant Safety Director at Parkway Mine; Billie Hearld, former Section Foreman at Parkway Mine; Ron Ivy, former Safety Director at Kronos Mine; John E. Scott, former employee in the Safety Department at Parkway Mine; Dwight Fulkerson, former Section Foreman at Parkway Mine; and Jeremy Hackney, former Section Foremen at Parkway Mine. Armstrong Coal filed for bankruptcy in November 2017

This case was investigated by the Mine Safety and Health Administration.

***United States v. David Sommers*, No. 2:18-CR-00290 (E.D. Penn.), ECS Trial Attorney Ryan Connors, AUSA Joan Burnes, and ECS Paralegal Ashley Patterson.**

On July 10, 2018, prosecutors filed a six-count indictment charging David Sommers with smuggling and violating the Lacey Act for smuggling turtles and submitting false records (16 U.S.C. §§ 3372(d)(2), 3373(d)(3)(A); 18 U.S.C. § 554).

Sommers operates an online business from his home outside of Philadelphia selling threatened diamondback terrapins in interstate and international commerce. The terrapins are prized in the reptile pet trade for their unique, diamond-shaped shell markings. After illegally collecting female turtles and their eggs from marshes in New Jersey, he then advertised the turtles and hatchlings as captive-bred. Sommers is further charged with shipping turtles to Canada in a package that was mislabeled-labeled as a book. Between 2014 and 2017, Sommers allegedly trafficked in more than 3,500 turtles.

This case was investigated by the U.S. Fish and Wildlife Service, with assistance from the New Jersey Division of Fish and Wildlife.

Guilty Pleas

United States v. John Joseph et al., No. 4:18-CR-00174 (M.D. Penn.), AUSAs Phillip J. Caraballo and Sean Camoni, and SAUSA Patricia C. Miller.

On July 19, 2018, John Joseph and Joseph Powell pleaded guilty to conspiring to violate the Clean Air Act (18 U.S.C. § 371). Gavin Rexer, Dennis Paulhamus, and Timothy Sweitzer previously admitted to participating in a scheme to modify emissions systems with “defeat devices” on trucks to ensure the vehicles passed emissions’ testing.

Rexer, Powell, and Joseph were employees of Rockwater Northeast LLC, a company that serviced the fracking industry. Between August 2013 and June 2014, the defendants conspired to modify the emissions systems on approximately 30 Rockwater heavy-duty diesel trucks by using “defeat devices.” Paulhamus and Sweitzer sold them the devices, which were subsequently mislabeled and concealed in Rockwater’s books as “exhaust systems.” The conspirators also took the modified commercial motor vehicles to state-approved inspection stations, including Sweitzer’s Garage, in order to pass inspections.

This case was investigated by the U.S. EPA Criminal Investigation Division and the DOT’s Office of the Inspector General, with assistance from the Federal Motor Carrier Safety Administration, and the Pennsylvania State Police.

United States v. Trenton Sargent et al., Nos. 2:17-CR-00166, 2:17-mj-00647, 00771 (D. Nev.), AUSA Tony Lopez, with assistance from ECS Trial Attorney Ryan Connors.

On July 18, 2018, Trenton Sargent pleaded guilty to being a felon-in-possession of a firearm, after he was initially charged with violating the Endangered Species Act (ESA) (18 U.S.C. § 922(g)(1)). Sentencing is scheduled for October 25, 2018.

In April 2016, Edgar Reyes, Steven Schwinkendorf, and Sargent drove their ATV into a gate securing the Devils Hole area, which is located within a 40-acre parcel of National Park Service land. Devils Hole is the only location in the world where Devils Hole pupfish, an endangered species, exist in the wild. Approximately 115 pupfish were observed in the spring of 2016.

Attempting to gain access, after damaging the fence, Sargent fired a shotgun at the padlock on the gate. When their efforts proved unsuccessful, they scaled the fence and destroyed surveillance equipment once inside the enclosed area. Sargent then entered the water, destroying eggs and larvae pupfish.

Schwinkendorf and Reyes pleaded guilty to violating the ESA and destruction of government property (16 U.S.C. § 1538; 18 U.S.C. § 1361). They each were sentenced to pay \$2,500 fines, complete a one-year term of probation, perform 100 hours’ community service, and were held jointly and severally responsible for \$5,623 in restitution to the National Park Service.

This case was investigated by the National Park Service, the U.S. Fish and Wildlife Service, and the Nye County Sheriff’s Office.

A photograph of a rooster with vibrant red and black feathers perched on a light-colored wooden barrier. The rooster is facing right, with its head turned slightly towards the camera. The background is dark and indistinct, suggesting an indoor setting like a barn or a large room. The lighting is focused on the rooster, highlighting its feathers.

The U.S. Attorney's Office partnered with the Rural Crimes and Animal Cruelty Unit of the Fresno County District Attorney's Office in coordinating the filing of charges against Crow and three spectators. The DA prosecuted Job Hernandez, Javier Flores-Arreola, and Javier Cerda, on animal cruelty charges.

Guilty Pleas



United States v. Jon Nichols et al., No. 3:18-CR-00050 (D. Alaska), AUSA Aunnie Steward, with assistance from ECS Senior Counsel for Wildlife Elinor Colbourn and AUSA Kathleen O’Leary.

On July 6, 2018, two men pleaded guilty for their involvement in the deaths of 15 Stellar sea lions. Jon Nichols, captain of the *F/V Iron Hide*, and deckhand Theodore Turgeon, pleaded guilty to violating the Marine Mammal Protection Act (MMPA). Nichols also pleaded guilty to obstruction of an MMPA investigation (16 U.S.C. §§ 1372(a)(2)(A), 1373, 1375(b)). Sentencing is scheduled for October 23, 2018.

During the first few weeks of the May 2015 salmon gillnet season, 15 Steller sea lions were found dead along the sand bars at the mouth of Copper River fishing district. From mid-May to early June 2015, Nichols and his crew (including Turgeon) shot at the animals using shotguns kept aboard the vessel. They fired more than 50 rounds of buckshot at Steller sea lions for the purpose of harassing and killing them. Nichols directed the vessel toward



Stellar Sea Lion

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Guilty Pleas

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the sea lions so that Turgeon could get a better shot.

NOAA received numerous tips identifying Nichols as one of the shooters. Nichols bragged that when he saw sea lions he would "grab his shotgun and shoot the bastards." It was not publicly known at the time that the sea lions had been shot with a shotgun.

From June 2015, through October 2016, Nichols interfered with and obstructed NOAA's investigation. After learning of the investigation in early June, Nichols directed his crew to remove his shotgun from the vessel. In October 2015, Nichols told Turgeon to lie to a federal agent about the gun on the vessel or that they had been shooting at the animals. Turgeon subsequently told this story to an agent. Nichols encouraged another crew member to tell a similar story when interviewed, which he did.

In November 2015, Turgeon was interviewed by a NOAA agent in preparation for his grand jury testimony. During his interview, he lied to the agent stating that there were no guns on the *Iron Hide* except during a short period of time when a bear hunting rifle was onboard. In December 2015, after the other crew member told Nichols he had received a grand jury subpoena, Nichols reassured him that the government did not know about the shotguns onboard, and to not mention them.

In October 2016, the crew member and Nichols had several discussions about the investigation, including the fact that they had both received target letters. Nichols continued to encourage him to lie stating that, even if convicted, they were first time offenders and would not face lengthy jail sentences.

This case was investigated by National Oceanic and Atmospheric Administration Office of Law Enforcement.

***United States v. Margaret M. Tobin*, No. 6:18-mj-00604 (W.D.N.Y.), AUSA Melissa M. Marangola.**

On July 2, 2018, Margaret M. Tobin pleaded guilty to possession of an unlawful identification document of the United States (18 U.S.C. §§ 1028(a)(6),(b)(6)). Sentencing is scheduled for September 6, 2018.

In September 2016, Tobin was hired as a subcontractor for a state-funded construction project in the City of Rochester (City). For the City to obtain state funding for the project, each employee was required to complete an Occupational and Safety Health Administration (OSHA) training course before performing any work on the contract. Between September 2016 and November 2016, Tobin provided her employees with OSHA training certification cards, despite no actual training. The fake cards contained the employees' names and registration numbers as if they had actually been issued by OSHA. The cards were then submitted to the City for the defendant and her employees to be paid for their services.

This case was investigated by the U.S. DOL Office of Inspector General.

Sentencings

***United States v. Raul Cardenas-Solis*, No. 1:17-CR-00168 (E.D. Calif.), AUSA Karen Escobar.**

On July 30, 2018, Raul Cardenas-Solis was sentenced to 46 months' incarceration after pleading guilty to conspiring to cultivate marijuana on public land (21 U.S.C §§ 841, 846). Cardenas also was ordered to pay \$11,195 in restitution to the U.S. Forest Service to defray the costs of cleaning up the area damaged by the cultivation operation.

Between October 2016 and July 2017, agents surveilled a large marijuana cultivation site in the North Meadow Creek area of the Sequoia National Forest. On July 5, 2018, while checking irrigation lines, Cardenas was arrested. The agents discovered large amounts of fertilizer, pesticides, and trash at his campsite. The cultivation caused extensive damage to the land and natural resources as a result of deforestation, pesticide and fertilizer use, the diversion of natural water sources, and trash disposal. Agents eradicated approximately 11,000 plants.

This case was investigated by the U.S. Forest Service with assistance from Homeland Security Investigations.

***United States v. Juan Carlos Rodriguez*, No. 18-CR-20141 (S.D. Fla.), AUSA Jaime Raich.**

On July 30, 2018, Juan Carlos Rodriguez (aka "El Doctor") was sentenced to six months' incarceration, followed by one year of supervised release. Rodriguez previously pleaded guilty to violating the Migratory Bird Treaty Act (16 U.S.C. §§ 703, 707(b)(2)). Rodriguez trafficked more than 200 migratory birds valued at approximately \$14,000.

In 2014, an undercover U.S. Fish and Wildlife Service agent found an internet posting advertising migratory birds for sale from an individual referring to himself as "El Doctor." After meeting the defendant, the agent purchased a Puerto Rican Spindalis. Over a total of 17 transactions, the agent purchased a variety of birds including Northern Cardinals, Puerto Rican Bullfinches, Yellow-faced Grassquits, Blue Grosbeaks, Indigo Buntings, Cooper's Hawks, Red-shouldered Hawks, Painted Buntings, Summer Tanagers and Screech-owls.

Rodriguez employed a variety of techniques to trap and kill migratory birds. In addition to keeping traps at his residence, he placed bird trapping cages on farms throughout Miami. His network of farmers trapped owls and shot hawks for him.



Cardinals and dead hawks purchased from defendant in a single transaction

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Sentencings

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Rodriguez shipped birds to and from Puerto Rico using false labels and invoices. He also used “mist nets” to trap large numbers of birds at a time. This involved Rodriguez erecting a 10-foot high, 100-foot long net along the edge of sugarcane and sunflower fields during migration season. He then flushed the birds into a net by driving his truck across the field. This technique netted hundreds of birds, which he stuffed into large feedbags “like sardines in a can,” working as quickly as he could because the entangled birds were vulnerable to wild dogs and cats.

Operation Ornery Bird culminated in the filing of charges against six defendants for trafficking more than 400 migratory birds over two migration seasons. This case was investigated by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, Customs and Border Protection, the National Park Service, and the U.S. Postal Inspection Service.

***United States v. Melinda Sue Relf*, No. 5:17-CR-50140 (D.S.D.), AUSAs Meghan N. Dilges and Eric Kelderman.**

On July 27, 2018, Melinda Sue Relf was sentenced to pay a \$1,000 fine after pleading guilty to violating the Migratory Bird Treaty Act (16 U.S.C. 703(a), 707(a)). In March 2017, Relf pawned items that were made with feathers from migratory birds.

This case is a result from Project Dakota Flyer. This U.S. Fish and Wildlife Service operation exposed the existence of a significant black market where eagle feathers and other bird parts were being sold for profit.

***United States v. Shawn N. Lee, et al.*, No. 2:17-CR-00574 (C.D. Calif.), AUSA Amanda Bettinelli.**

On July 23, 2018, Shawn N. Lee was sentenced to complete a three-year term of probation (to include six months’ home confinement), and perform 40 hours’ community service, after pleading guilty to a smuggling violation (18 U.S.C. § 545).

In January 2017, Lee exchanged electronic communications with co-defendant Mickey Tanadi (in Indonesia) about buying eight Asian arowana fish. Tanadi told Lee that the fish were illegal in the United States and would have to be smuggled into the country, which Lee acknowledged. On January 26, 2017, Lee wired \$2,550 to Tanadi for shipment.



Porcelain pots containing bags of Asian arowana

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Sentencings

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Tanadi shipped the fish a few days later from Indonesia, hiding them in bags of water concealed in porcelain pots.

The package (labelled “Porcelain Herbal Pots”) drew the attention of a Customs and Border Protection officer after it arrived in California and felt wet. After the Asian arowana fish were found inside, agents arranged for a controlled delivery of the box to Lee’s residence. After Lee took receipt of the box, but before agents could execute the search warrant, Lee left carrying a large bag, and drove away. After making a traffic stop, agents found the eight Asian arowana in the bag.

As part of sentencing, Lee also will forfeit the fish and \$15,370 in cash that was found in his residence. Tanadi is still a fugitive.

This case is a result of Operation Jungle Book, a law enforcement initiative led by the U.S. Fish and Wildlife Service targeting wildlife smuggling.

United States v. Hovary Muniz, No. 18-CR-20335 (S.D. Fla.), AUSAs Jaime Raich and Tom Watts-FitzGerald.

On July 23, 2018, Hovary Muniz was sentenced to seven months’ imprisonment, followed by one year of supervised release. The term of imprisonment was ordered to be served *consecutively* to eight months imposed as a result of Muniz violating the conditions of his probation (on an earlier bird smuggling conviction) for a total sentence of 15 months imprisonment. Muniz previously pleaded guilty to knowingly selling and offering migratory birds for sale (16 U.S.C. §§ 703(a), 707(b)(2)).

Between February and May 2017, undercover agents entered private Facebook chat sites, locating posts and videos from Muniz advertising a number of Yellow-faced Grassquits for sale. In February 2018, Muniz posted a video on Facebook depicting a Lazuli Bunting he had for sale in a cage at his residence. He also stated that he had more birds.

In the previous case, Muniz was intercepted at Miami International Airport in January 2016, returning to the United States aboard a flight from Cuba. He denied having any wildlife to declare both verbally and in writing. After a subsequent pat-down, Customs officers found plastic tubes concealed in his underwear and in a fanny pack, which held five Cuban Melodious Finches, one Cuban Bullfinch, one Yellow-faced Grassquit, one Indigo Bunting, and one Blue Grosbeak. Muniz



Blue Grosbeak that Muniz posted on Facebook

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was sentenced to four months' home confinement as part of a three-year term of probation. He was still serving this sentence when he engaged in the current criminal conduct.

Operation Ornery Bird culminated in the filing of charges against six defendants for trafficking more than 400 migratory birds over two migration seasons. This case was investigated by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, Customs and Border Protection, the National Park Service, and the U.S. Postal Inspection Service.

United States v. Kevin Cleveland, No. 1:18-CR-00079 (S.D. Ind.), AUSA
Nicholas Linder.

On July 18, 2018, Kevin Cleveland was sentenced to complete a six-month term of probation and will perform 48 hours' community service. Cleveland previously pleaded guilty to violating the Hazardous Materials Transportation Act for altering and tampering with markings on hazardous material cargo tanks (49 U.S.C. §§ 5104(b), 5124).

Cleveland operated as an intrastate carrier of petroleum products in the Indianapolis area. In May 2017, he altered markings associated with inspections and tests of a cargo tank used to transport hazardous materials, used a cargo tanker that had not been properly inspected or tested, and provided false documents to Federal Motor Carrier Safety Administration (FMCSA) inspectors.

This case was investigated by the U.S. Department of Transportation with assistance from the FMCSA.

Sentencings

***United States v. Patrick W. Riley*, No. 5:18-CR-00005 (M.D. Fla.), AUSA Christopher Murray.**

On July 18, 2018, Patrick W. Riley was sentenced to complete a three-year term of probation, to include six months' home confinement. Riley previously pleaded guilty to conspiring to violate the animal fighting provisions of the Animal Welfare Act (18 U.S.C § 371).

Between March 2016 and March 2017, Riley trained eight dogs to be used in fights. In July 2016, he made arrangements with a co-defendant about transporting a dog and warned against using social media since it is monitored by law enforcement. In November and December 2016, Riley arranged for his dog "Rocket" to participate in fights in Mississippi and Texas. After agents executed a search warrant on Riley's property in March 2017, they seized the dogs and a variety of dog training equipment.



Dog removed from defendant's property

This case was investigated by the Federal Bureau of Investigation, the Sumter County Sheriff's Office, and the Pasco County Sheriff's Office.

***United States v. Arvella Pomani*, No. 3:17-CR-30118 (D.S.D.), AUSAs Meghan N. Dilges and Eric Kelderman.**

On July 17, 2018, Arvella Pomani was sentenced to complete a one-year term of probation and was held jointly and severally liable (with her brother Michael Pomani) for \$16,800 in restitution to the National Wildlife Fund. Pomani previously pleaded guilty to violating the Bald and Golden Eagle Protection Act for the illegal sale of eagle feathers in October 2014 (16 U.S.C. § 668(a)).

This case is a result from Project Dakota Flyer. This U.S. Fish and Wildlife Service operation exposed the existence of a significant black market where eagle feathers and other bird parts were being sold for profit.

***United States v. Kenneth Foster, d/b/a Rapid Pawn*, No. 5:17-CR-50136 (D.S.D.), AUSAs Meghan N. Dilges and Eric Kelderman.**

On July 13, 2018, Kenneth Foster, d/b/a Rapid Pawn, was sentenced to pay a \$3,000 fine after pleading guilty to violating the Migratory Bird Treaty Act (16 U.S.C. §§ 703 (a), 707(a)). In August 2014, Foster sold items with owl and hawk feathers from his pawn shop.

This case is a result from Project Dakota Flyer. This U.S. Fish and Wildlife Service operation exposed the existence of a significant black market where eagle feathers and other bird parts were being sold for profit.

Sentencings

***United States v. Jorge Pena*, No. 5:17-CR-50056 (D.S.D.), AUSAs Meghan N. Dilges and Eric Kelderman.**

On July 16, 2018, Jorge Pena was sentenced to five months' incarceration, and ordered to pay \$20,000 in restitution to the National Wildlife Foundation. Pena previously pleaded guilty to violating the Lacey Act and the Bald and Golden Eagle Protection Act (16 USC §§ 3372(a)(1), 3373(d)(1)(b), 668(a)).

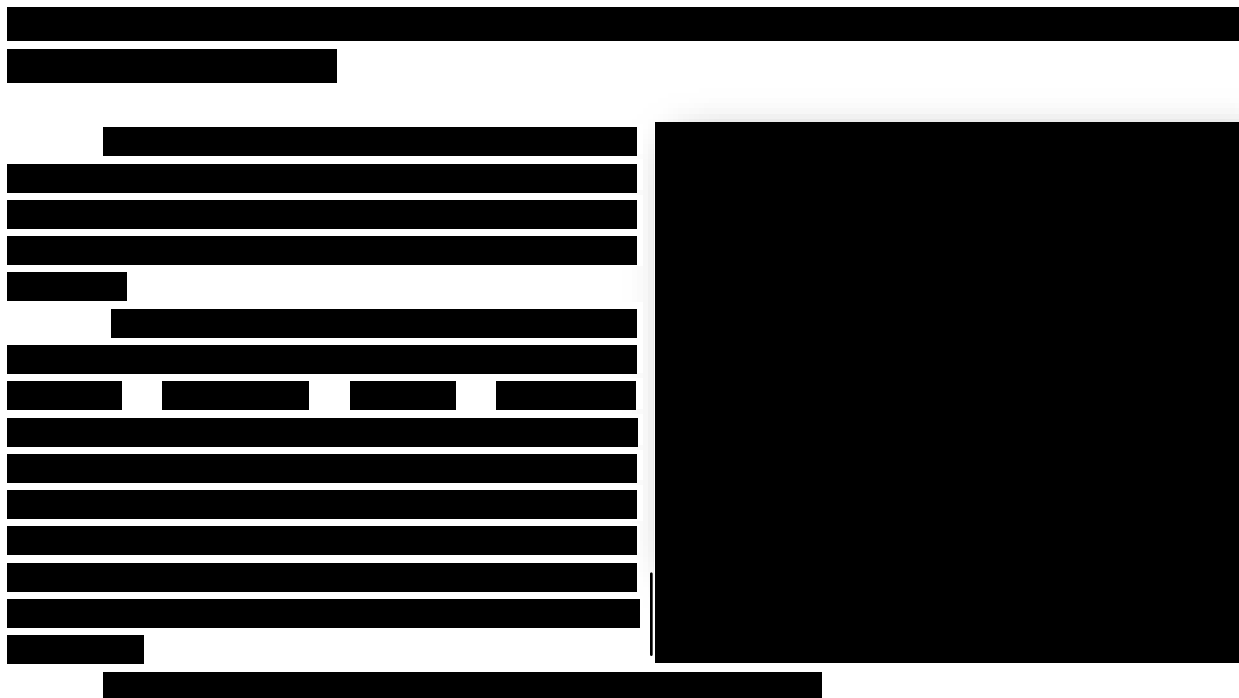
Between July 2014 and May 2016, Pena bought and sold feathers and other parts from eagles and other migratory birds. The photos depict items he sold to an undercover informant.

This case is a result from Project Dakota Flyer. This U.S. Fish and Wildlife Service operation exposed the existence of a significant black market where eagle feathers and other bird parts were being sold for profit.



1. *Bald Eagle Feather Bustle*
2. *Bald Eagle and Red Tailed Hawk Fans*
3. *Bald Eagle Tail*
4. *Golden Eagle Wing Feathers and Foot*
5. *Harpy Eagle Wing Feather Fan*
6. *Bald and Golden Eagle Wings, Feet, and Bones*

Sentencings



United States v. Hai Soon Ship Management, No. 1:18-CR-00056 (D. Hawaii), AUSAs Ken Sorenson and Amalia Fenton.

On July 12, 2018, Hai Soon Ship Management (HSS), a Singaporean shipping company, was sentenced to pay a \$1 million fine, complete a two-year term of probation, and implement an environmental compliance plan. The company pleaded guilty to violating the Act to Prevent Pollution from Ships (APPS), and to making false statements concerning the illegal dumping of oil contaminated bilge water at sea (18 U.S.C. § 1001; 33 U.S.C. § 1908(a)).

HSS is the operator of the *T/V Hai Soon 39*. The vessel provided refueling services to fishing vessels. In October 2017, the chief engineer and other crew members constructed a bypass hose in the engine room to pump oily waste directly overboard. These discharges were not recorded in the ship's oil record book; the chief engineer also added false entries to make it appear that the discharges had properly processed through the oil water separator.

This case was investigated by the U.S. Coast Guard.

Sentencings

***United States v. Alberto Corbo-Martinez*, No. 17-CR-20596 (S.D. Fla.), AUSA Tom Watts-FitzGerald.**

On July 5, 2018, Alberto Corbo-Martinez was sentenced to three months' incarceration, followed by six months' home confinement, and three years' supervised release. Martinez previously pleaded guilty to smuggling birds into the U.S. and making a false statement (18 U.S.C. §§ 545, 1001 (a)(3)).

In April 2014, Martinez arrived at the Miami International Airport on a flight from Cuba. Customs agents found Cuban Bullfinches and a Yellow-faced Grassquit concealed inside curlers taped to his legs. Martinez denied having any wildlife to declare both verbally and in writing.

Operation Ornerly Bird culminated in the filing of charges against six defendants for trafficking more than 400 migratory birds over two migration seasons. This case was investigated by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, Customs and Border Protection, the National Park Service, and the U.S. Postal Inspection Service.



This rare yellow-faced Grassquit is valued at approximately \$10,000

Announcements



As part of Operation Ornerly Bird, the U.S. Fish and Wildlife Service was able to rescue and release 130 migratory birds into the Everglades National Park. AUSA Tom Watts-FitzGerald demonstrates the proper technique for releasing a cute stuffed painted bunting (*Passerina ciris.*)

Announcements

*** When submitting a press release for posting with the Executive Office of U.S. Attorneys <https://www.justice.gov/usao/pressreleases>, please be sure it is tagged for the “Environment/Wildlife” topic. This will help ensure that your case is not overlooked for reporting in the Bulletin. ***

News from state, local, and Canadian cases is posted on the Regional Environmental Enforcement Associations [website](#) .

Please send [REDACTED] any pleadings you believe would be useful for posting in the [Brief Bank](#). Older materials are still available on the [Document Bank Archives](#) page.

If you are in need of sentencing data for your wildlife or pollution cases, please contact [REDACTED] with your search requests.

Please notify ECS of any appeals taken in your cases, as per [Section 5-11.118](#) of the U.S. Attorneys’ Manual.

A public version of the [Bulletin](#) is available for non-law enforcement readers.

Position	Name	Phone
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Deputy Chief	Joseph Poux	██████
Assistant Chief	Thomas Ballantine	██████
Assistant Chief	Wayne Hettenbach	██████
Assistant Chief	Lana Pettus	██████
Assistant Chief	Jennifer Whitfield	██████
Senior Litigation Counsel	Howard P. Stewart	██████
Senior Litigation Counsel	Richard Udell	██████
Senior Counsel for Wildlife	Elinor Colbourn	██████
Senior Counsel	Kris Dighe	██████
Senior Trial Attorney	Jennifer Blackwell	██████
Senior Trial Attorney	Georgiann Cerese	██████
Senior Trial Attorney	Christopher Costantini	██████
Senior Trial Attorney	Daniel Dooher	██████
Senior Trial Attorney	Todd Gleason	██████
Senior Trial Attorney	David Kehoe	██████
Senior Trial Attorney	Jeremy Korzenik	██████
Senior Trial Attorney	Ken Nelson	██████
Trial Attorney	John Arbab	██████
Trial Attorney	Cassandra Barnum	██████
Trial Attorney	Mary Dee Carraway	██████
Trial Attorney	John Cashman (USCG)	██████
Trial Attorney	Ryan Connors	██████
Trial Attorney	Adam Cullman	██████
Trial Attorney	Stephen DaPonte	██████
Trial Attorney	Gary Donner	██████
Trial Attorney	Patrick Duggan	██████
Trial Attorney	Ethan Eddy	██████
Trial Attorney	Matthew Evans	██████
Trial Attorney	Stephen Foster	██████
Trial Attorney	Christopher Hale	██████
Trial Attorney	Joel LaBissonniere	██████
Trial Attorney	Samuel (Charlie) Lord	██████
Trial Attorney	Shennie Patel	██████
Trial Attorney	Erica Pencak	██████
Trial Attorney	Richard Powers	██████
Trial Attorney	Lauren Steele	██████