

McNab v. United States of America and Blandford, Schoenwetter, and Huang v. United States of America.

Background:

During the period covered by the indictment, the Republic of Honduras imposed conservation regulations to protect its lobster fishery from over-exploitation.

McNab owned and operated a fleet of lobster fishing boats that harvested Caribbean spiny lobster in Honduran fishing waters. A number of Honduran laws and regulations were broken by McNab's fleet. These included:

- Harvesting spiny lobster in Honduran waters that had tails under 5 inches (Resolution 030-95) and contained eggs (Article 70(3)).
- Loading the lobster directly from the lobster boats onto a transport vessel, and not docking their vessels or unloading the catch in a Honduran port (Article 30 of the Fishing Law).
- Not reporting the catch in writing to the Honduran fishing authorities (Articles 35 and 37 of the Fishing Law).
- Not having the lobster inspected and processed in Honduras (Agreement 0008-93).

Once the lobster (400,000 lbs with a value of \$4.6 million) were unloaded from the transport vessel in Alabama, they were sold to an American corporation and resold from there.

Prosecution:

On Feb 3, 1999, an anonymous facsimile was sent to agents of the National Marine Fisheries Service (NMFS) indicating that McNab's ship would arrive in Alabama on Feb 5, 1999, with undersized lobster that violated Honduran law.

NMFS agents repeatedly consulted with Honduran officials and determined through their investigation that Honduran law had been violated by McNab's company and by those that bought the lobster in the US. Under the Lacey Act, McNab and fellow defendants were convicted of:

- Dealing in fish and wildlife that he/she knew were unlawfully taken, possessed, transported, or sold.
- Dealing in fish and wildlife that he/she should have known were unlawfully taken, possessed, transported, or sold.
- Falsely labeling fish or wildlife

Appeal:

McNab and company appealed the conviction, arguing that the Honduran laws underlying the convictions were invalid and that only laws and not regulations were subject to the Lacey Act. However, the court of appeals affirmed the conviction, concluding that under Lacey, "foreign regulations and other legally binding requirements have the force of law, and not just foreign statutes."