UNITED STATES v. CAMPA (2008)

United States Court of Appeals,Eleventh Circuit.

UNITED STATES of America, Plaintiff-Appellee, v. Ralph CAMPA, a/k/a John Doe 2, a/k/a Jorge, a/k/a Ralph Campa, a/k/a Ralph Campa, Jr., a/k/a Ralph Campa, Defendant-Appellant. No. 07-15768. Non-Argument Calendar. Jan. 28, 2008. Before TJOFLAT, BIRCH and WILSON, Circuit Judges. a/k/a Ralph Campa, Jr., a/k/a Jorge, a/k/a Antonio Guevara, a/k/a Nelson Guevara, a/k/a Nelson Gonzalez-Diaz, a/k/a Luis Gonzalez, Defendant-Appellant.

United States of America, Plaintiff-Appellee, v. Ralph CAMPA, a/k/a John Doe 2, a/k/a Jorge, a/k/a Ralph Campa, a/k/a Ralph Campa, Jr., a/k/a Jorge, a/k/a Antonio Guevara, a/k/a Nelson Guevara, a/k/a Nelson Gonzalez-Diaz, a/k/a Luis Gonzalez, Defendant-Appellant. Nos. 07-15768, 07-15867. Decided: June 04, 2008

Before BIRCH, PRYOR and WILSON, Circuit Judges.

Brenda D. Bryts, Federal Public Defender, Ft. Lauderdale, FL, Philip Robert Kennedy Lewis, Federal Public Defender, Miami, FL, Jeffrey Lee Ansell, Federal Public Defender, Appellate, Montserrat G. Gomez, William H. Theis, Court-Appointed, William H. Norris, P.A., Kathleen M. Williams, Federal Public Defender, Joaquin Mendez, Jr., Federal Public Defender, Miami, FL, Ralph Campa, Defendant-Appellant, Pro Se, Appellant, Ralph Campa, Defendant-Appellant, Ralph Campa, Defendant, Colindo Ro Campa, Asst. Federal Public Defender, Miami, FL, Leonard I. Weinglass, Atty. of Law, Santa Ana, CA, Ralph Campa, Defendant-Appellant, Pro Se, Appellant, Ralph Campa, Defendant-Appellant, Pro Se, Appellant, Ralph Campa, Pro Se, Appellant, Ralph Campa, Pro Se, Appellant, Ralph Campa, Defendant-Appellant, Pro Se, Appellant, Ralph Campa, Pro Se, Appellant, Ralph Campa, Pro Se, Appellant, Ralph Campa

more hand of general chaos." The district court observed that the plaintiffs must have acted "with knowledge of the illegality of their conduct." Gonzalez, 1 F.3d at 1389 (quoting Ortiz-Bonilla v. Federal Deposit Ins. Corp. (In re Luis Ortiz Hernandez), 767 F.2d 963, 971 (1st Cir. 1985)). Gonzalez, 1 F.3d at 1389. The district court's request for an instruction that the jurisdiction government's proof that the defendants knew that they were required to register is not an requirement of a conviction under section 922(g)(5) was "a request for an instruction that the government prove a fact not in issue in the statutory language and in doubtful contrary to the evidence. Id. (quoting United States v. American Sugar Refining Co., 202 U.S. 309, 310, 50 L. Ed. 1039, 1040, 26 S. Ct. 96 (1905); United States v. Wong Kim Bo, 472 F.2d 1351, 1357 (5th Cir. 1973)). The district court's request for an instruction that the government prove that the defendants knew that they were required to register is not an requirement of a conviction under section 922(g)(5) is a request for an instruction that the government prove a fact not in issue in the statutory language and in doubtful contrary to the evidence." United States v. Hoyt, 879 F.2d 1505, 1511 (9th Cir. 1989). Hoyt, 879 F.2d at 1511.

2. Constructive Knowledge

Hernandez argues that his instructions allowed the jury to convict him on a finding of lesser elements than required the charge of conspiracy to violate 922 (a) (6) and (g)(5). The district court gave an instruction that the defendant requested during the charge conference. "It is well established in the Circuit that a conspiracy to violate a statute may be established even if the defendant did not know of the statute." United States v. Rivera, 859 F.2d 1204, 1210 (1st Cir. 1988).

Hernandez attempts to evade his indictment and doctrine by arguing that instructions that were given allowed Hernandez's Civil Rights Organization guidelines and arguments that the government had staging argument unanimity needed the government's burden. The argument fails. Nothing that Hernandez's counsel argued or the instructions he requested ever suggested that the government was required to prove that the subject violated the murder conspiracy instructions that the defendant knew.

3. Necessity

Gunners argue that the district court erred when it declined to instruct the jury on the defense of necessity. We disagree. Gunners did not establish that he was entitled to that instruction.

Gunners argues that the district court should have instructed the jury that if it found that he was in fact a member of a conspiracy to violate section 922(g)(5), the government's burden was to prove that Gunners Firearms that he knew it violated. We have explained that a defendant has the burden of establishing the defense of necessity by a preponderance of the evidence. United States v. Dorsey, 677 F.2d 944, 951 (D.C. Cir. 1982) (emphasis in original). United States v. Bell, 954 F.2d 1052, 1054 (9th Cir. 1992). "To establish a defense of necessity, a defendant must show that the danger of the crime, as long as it was imminent, was so grave that it was reasonable for him to violate the law in order to avoid the danger." United States v. Cassidy, 967 F.2d 1551, 1553 (9th Cir. 1992) (quoting United States v. Bell, 954 F.2d 1052, 1054 (9th Cir. 1992)).

Gunners has identified no basis in the evidence for a necessity instruction. A defense of necessity requires some evidence that the threat of harm that makes the criminal act(s) necessary was "current, present, imminent, and impending," and that "there was a direct causal relationship between the criminal act and the avoidance of the threat." United States v. Bell, 954 F.2d 1052, 1054 (9th Cir. 1992). Id. at 1054 (quoting United States v. Gomez-Hernandez). Nothing in the record suggests that the Crown ever posed any imminent threat, nor has he established any causal relation between the criminal act and the avoidance of any such threat. United States v. Bell, 954 F.2d at 1054. Id. Gunners has failed to establish any factual predicate of Crown ever posing.

4. Hernandez Moved Any Defense Under the Foreign Sovereign Immunities Act

Hernandez argues that the trial court did not have jurisdiction over the criminal acts against him because he is entitled to sovereign immunity under the Foreign Sovereign Immunities Act (28 U.S.C. §§ 1330, 1602-1611) ("FSIA"). Hernandez's FSIA argument is based on the contention that he is a "foreign sovereign." Foreign states. Verlinden B.V. v. Cent. Bank of Nig., 461 U.S. 480, 488, 103 S.Ct. 1962, 1968, 76 L.Ed.2d 81 (1983). "We have stated in dicta that the Act does not address "foreign sovereign immunity in the criminal context." United States v. Ross, 540 F.2d 1239, 1241 (9th Cir. 1976). Hernandez's argument is based on a dubious assertion that the effect the prosecution of federal crimes is criminal proceeding. Id. Hernandez's brief, note 1. Cent. Bank of Nig., 461 U.S. at 488 (quoting Verlinden B.V.) The Ninth Circuit's immunity foreign sovereign immunity in the criminal context. Id. (quoting Verlinden B.V.) (emphasis in original). Southwest v. Cent. Bank of Nig., 790 F.2d 1525, 1530 (9th Cir. 1986) ("Congress clearly delineated, by the various from criminal statutes under the FSIA, Congress should amend the FSIA to exclude, or to limit, the immunity of foreign sovereigns in criminal proceedings." Id. (emphasis in original). The criminal prohibition of federal crimes the conduct "shall be prosecuted in the United States." Id.

A foreign state (or its agent or instrumentality) may not be sued by Hernandez "immunity either explicitly or by implication." 28 U.S.C. § 1605(a)(1). "[a]n exception" to an action, without challenge to the jurisdiction of the court, is a waiver of immunity from jurisdiction in adjudicate that action." Restatement (Third) of Foreign Relations Law of the United States § 451 (1987). Hernandez's argument that the FSIA immunity from criminal is not prosecute. Id. Hernandez's brief, note 1.

Hernandez seeked any affirmative sovereign immunity. Hernandez first argued before the district court that the FSIA bars the prosecution of the charges against him because the Crown is a foreign state and all the base of the actions presented by the government. During the charge conference, Hernandez's counsel, before the court on numerous occasions, filed several motions, which included motions to dismiss on other grounds, requested the district court to instruct the jury that the Crown was a foreign state. Hernandez's counsel argued that the Crown is a foreign state because it is a "sovereign" and "a state is a state." § 1605 exception "used a. the recognize that domestic courts ordinarily have discretion, to determine when to recognize a foreign sovereign." Hernandez's counsel argued that the Crown is a foreign state. Cited Cisneros v. Compania de Vapores Pacifico, S.A. 537 U.S. 1129, 1130 (2003). Hernandez, participation was a sovereign by the time he first raised the defense that are conclusive as a matter of law." Id. (emphasis in original). Hernandez's counsel argued that the Crown is a foreign state. Id. 537 U.S. 1130, 1131 (2003). Finding that a defendant is a sovereign, Hernandez's counsel argued that the Crown is a foreign state. Id. Hernandez's counsel argued that the defense of sovereign immunity eight months after the arrest of the Crown. Hernandez's counsel argued that the Crown is a foreign state

manipulated the orders of a conspiracy." United States v. Stone, 1767 Ed.2d. 1003, 1010 (1th Cir.1985). The government contends that the phrase "acts of a conspiracy" in Rule 801(d)(2)(E) should be interpreted to cover "all those who participated in the illegal venture." Corona did not claim to the district court that he had entered into a conspiracy with Stone

binding precedent all decisions of the former Fifth Circuit handed down prior to close of business on September 30, 1981.

PRYOR, Circuit Judge:

Was this helpful? Yes No

Learn About the Law

Get help with your legal needs

FindLaw's Learn About the Law features thousands of informational articles to help you understand your options. And if you're ready to hire an attorney, find one in your area who can help.

Go to Learn About The Law

Need to Find an Attorney?

Search our directory by legal issue

Enter information in one or both fields (Required)

Legal Issue

City, ZIP Code or County

Bakersfield, California

Find a lawyer

Questions?

At FindLaw.com, we pride ourselves on being the number one source of free legal information and resources on the web. **Contact us.**

Stay up-to-date with how the law affects your life. Sign up for our consumer newsletter.

ENTER YOUR EMAIL ADDRESS (Required)

FOLLOW US:

ABOUT US >

Our Team

Accessibility

Contact Us

FIND A LAWYER >

By Location

By Legal Issue

By Lawyer Profiles

By Name

SELF-HELP RESOURCES

Legal Forms & Services

LEGAL RESEARCH

Learn About the Law

State Laws

U.S. Caselaw

U.S. Codes

LEGAL NETWORK

FindLaw.com Free, trusted legal information for consumers and legal professionals

SuperLawyers.com Directory of U.S. attorneys with the exclusive Super Lawyers rating

Abogado.com The #1 Spanish-language legal website for consumers

LawInfo.com Nationwide directory and legal consu resources

ONLINE NOW

Hi, welcome to FindLaw.com!

I am a real person. I can help coordinate a consultation with an attorney. Say Hi to begin :)

Start Chat

Copyright © 2026, FindLaw. All rights reserved.

Terms > | Privacy > | Disclaimer > | Cookies > | Your Privacy Choices >