

3-16-2011

Newsroom: NPR: Guttoff on Piracy Laws

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Recommended Citation

Roger Williams University School of Law, "Newsroom: NPR: Guttoff on Piracy Laws" (2011). *Life of the Law School (1993-)*. 281.
https://docs.rwu.edu/law_archives_life/281

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Newsroom

NPR: Gutoff on Piracy Laws

NPR's Morning Edition interviewed Professor Jonathan Gutoff for a story on the prosecution (and conviction) of Somali pirates under U.S. federal law.

On NPR's Morning Edition: "[U.S. Courts Dust Off High Seas Piracy Laws](#)" by Carrie Johnson

March 16, 2011: The U.S. is prosecuting pirates again. Piracy is one of the oldest crimes in federal law. Three cases have been heard in Virginia, including one in which five Somali men were sentenced this week to life plus 80 years. Often, suspects claim to be minors, and the government has to spend time trying to find out if it's true.

TRANSCRIPT from [Lexis Nexis News](#):

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National Public Radio (NPR)

SHOW: Morning Edition 11:00 PM EST NPR

March 16, 2011 Wednesday

626 words

U.S. Courts Dust Off High Seas Piracy Laws

LINDA WERTHEIMER, host:

We're going to bring you up to date now on the court cases surrounding suspected pirates captured off the coast of East Africa. American prosecutors have been bringing criminal charges against them. The latest group of alleged pirates appeared in a Virginia courtroom yesterday. NPR's Carrie Johnson previews the legal arguments on the horizon.

CARRIE JOHNSON: The anti-piracy law is one of the oldest crimes on the books. It dates all the way back to the founding of the U.S. and it's hardly been used in the past century. Lately though, three cases in eastern Virginia are reviving the law of the high seas in a very big way.

Neil MacBride is the top federal prosecutor there.

Mr. NEIL MACBRIDE (U.S. Attorney): Armed attacks on U.S.-flagged vessels carry severe consequences in U.S. courts.

JOHNSON: Severe, such as mandatory life sentences in American prisons. Five men from Somalia got the message Monday. That's when a federal judge sentenced them to life plus 80 years for attacking the USS Nicolas with rocket-propelled grenades. Yesterday, 13 more young men from Somalia appeared in court to answer charges about the capture of a yacht called The Quest. Four Americans on the Quest were shot last month as the military tried to negotiate for their release. They're the first killings of pirate hostages that anybody can remember.

Mr. JOHN CAMPBELL (Former Ambassador to Nigeria): We're talking about criminal behavior. We're talking about crimes.

JOHNSON: That's John Campbell. He's a fellow at the Council on Foreign Relations and a former ambassador to Nigeria.

Mr. CAMPBELL: I mean, you know, this is not a political insurgency. We're not talking about freedom fighters, however defined.

JOHNSON: American prosecutors say they step in when there's a clear U.S. interest, when an American boat has been hijacked or when Americans are taken captive. But in a couple of recent episodes, the Somali pirates never made it onboard the U.S. vessels. That's a legal argument that defense lawyers have used with some success.

Last year, a group of alleged pirates convinced a judge in Virginia to throw out the piracy charge against them. Prosecutors appealed. A higher court will hear that argument later this month.

Jonathan Gutoff teaches piracy law at Roger Williams University in Rhode Island.

Professor JONATHAN GUTOFF (Roger Williams University): It's a practical matter but from either an evidentiary point of view or a legal point of view, I don't think it's going to pose a real problem for the prosecution.

JOHNSON: There's a much bigger problem for the U.S., and it's on land in Somalia. Here's John Campbell at the Council on Foreign Relations.

Mr. CAMPBELL: So you've got everything. You've got profound poverty, weak or nonexistent governments, and the opportunity that is provided by a very, very busy maritime environment.

JOHNSON: Not to mention a lot of assault weapons available to young men who took part in Somalia's civil war.

There's one more issue that keeps coming up in the U.S. pirate cases. Just how old are the pirates themselves? Last month, a federal judge in New York sentenced convicted hijacker Abduwali Muse to 33 years in prison. To try to get a lighter sentence, his lawyers argued he wasn't an adult under the law. Birth certificates are hard to come by in Somalia, so they offered some medical evidence about his age, including dental records. The judge didn't buy it, but the under-age argument can work sometimes.

MacBride, the U.S. attorney in Virginia, agreed to let one of the recent pirate suspects go without any criminal charges, after he figured out the young man was a minor and that he was just a bystander while leaders allegedly took over The Quest last month.