



**U.S. Department of Justice**  
*United States Attorney*  
*Southern District of Florida*  
*Appellate Division*

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99 N.E. 4th Street, 5th Floor  
Miami, Florida 33132  
(305) 961-9383

June 22, 2021

Hon. Beverly B. Martin  
Hon. Robin S. Rosenbaum  
Hon. Robert J. Luck  
United States Court of Appeals  
for the Eleventh Circuit  
Room 1212  
James Lawrence King Federal Justice Building  
99 N.E. 4th Street  
Miami, Florida 33132  
By CM/ECF

Re: **Weir et al. v. United States, Case No. 20-11188-X**

*Letter Notice of Supplemental Authority Pursuant to Fed. R. App. P. 28(j) and  
Eleventh Circuit I.O.P.—6*

Dear Judge Martin, Judge Rosenbaum, and Judge Luck:

Last week, this Court issued *United States v. Nunez et al.*, \_\_F.3d\_\_, 2021 WL 2470303 (11th Cir. June 17, 2021), relevant to this case scheduled for argument in Miami on June 30. In discussing bases for United States jurisdiction over extraterritorial conduct, the Court cited as an authoritative source for customary international law's treatment of jurisdiction over foreign-registered vessels Craig H. Allen, *The Peacetime Right of Approach and Visit and Effective Security Council Sanctions Enforcement at Sea*, 95 Int'l L. Stud. 400, 413 (2019). *Nunez*, 2021 WL 2470303, at \*4. United States jurisdiction over Petitioners' conduct, here, during a Maritime Drug Law Enforcement Act boarding action on a Jamaican-flagged vessel, fell within international law's recognition of Jamaica's "consent to

enforcement actions by” its bilateral agreement partner. Allen, *The Peacetime Right of Approach and Visit*, 95 Int’l L. Stud. at 416.

The article discusses several “well-known exceptions” to “exclusive flag State jurisdiction.” *Id.* at 416-17.

For example, pirate ships are subject to universal jurisdiction. The flag State may also consent to enforcement actions by other States. Some flag States have entered into standing agreements with “enforcement” States to carry out their Law of the Sea Convention obligations as flag States to suppress narcotics trafficking by their vessels.

*Id.* (citing enforcement boardings by agreement pursuant to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and other treaties).

This jurisdiction through agreed joint-enforcement actions with the consent of a vessel’s flag nation is recognized in addition to other jurisdictional bases under international law, including “Protective jurisdiction” and jurisdiction over “universally condemned acts.” *Id.* at 415. *See* Government’s Br. at 34.

International law’s expanded recognition of joint enforcement actions, including “from powers conferred by treaty,” addressed in part the growth of “traffick[ing in] narcotics and psychotropic drugs” “[i]n the second half of the twentieth century.” *Id.* at 421-23.

United States jurisdiction over Petitioners’ conduct during what the record establishes was an MDLEA enforcement boarding (CRDE:1; CVDE:15-1) was thus “[c]onsistent with” “general principles of international law” in “rely[ing] ... on individual flag State consent” among other bases. *Id.* at 426.

Respectfully submitted,

Juan Antonio Gonzalez  
Acting United States Attorney

By: /s/ Jonathan D. Colan  
Jonathan D. Colan  
Assistant United States Attorney

Emily M. Smachetti  
Chief, Appellate Division  
cc: Petitioners’ Counsel (by CM/ECF)