

## U.S. Ninth Circuit Orders Sea Shepherd to Avast

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Declaring that you don't need a peg leg or an eye patch to be a pirate, in a decision issued February 25, the U.S. Court of Appeals for the Ninth Circuit held that the Sea Shepherd Conservation Society's actions against the Institute of Cetacean Research amounted to piracy under the law of nations. Sea Shepherd had engaged in a campaign against Cetaceans' whaling vessels, ramming them, launching smoke bombs and acid containers, attempting to foul propellers, and directing lasers against personnel. Cetacean's application for an injunction was denied by the U.S. District Court for the Western District of Washington, but the Ninth Circuit found the lower court decision to be so filled with "numerous, serious, and obvious errors" that it took the rare step of ordering the matter transferred to a different judge. The Ninth Circuit referred to the United Nations Law of the Sea Convention, and the High Seas Convention, which define piracy as "illegal acts of violence or detention, or any act of depredation, committed for private ends ... against another ship, or against persons or property on board such ship." Among other things, the court held that "private ends" is not limited to financial enrichment, but include all acts other than those taken on behalf of a state, and held that the proscribed violence need not be directed against persons, or be successful. The court went on to hold that Sea Shepherd's attacks against Cetacean's vessels therefore constituted piracy under the law of nations and should be properly enjoined. The decision may open up further questions, not least of which is whether U.S. prosecutors or other nations, acting under the universal jurisdiction applicable against piracy, may now seek to pursue, capture, and prosecute Sea Shepherd crews (or those providing material support) as pirates.

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