



American Model United Nations

ICJ Justice

IN THE

INTERNATIONAL COURT OF JUSTICE

OF THE

AMERICAN MODEL UNITED NATIONS

Nicaragua (Applicant) v. Honduras (Respondent)

Argued: November 21, 2011

Decided: November 22, 2011

The MAJORITY OPINION was signed and agreed to by Justice Berman, Justice Calkins, Justice Carmona, Justice Carraher, Justice Delgado, Justice Hathaway, Justice Jackson, Justice Kroll, Justice Mercier, Justice Ruth, Justice Vining, and Justice Westmaas.

In determining the jurisdiction for this case, the Court assessed the answers to two questions: 1) Does the Court have jurisdiction in deciding maritime boundary disputes between states? and 2) Is the Court the last legal remedy for resolving the dispute between Nicaragua and Honduras?

- a) The Court has jurisdiction to investigate questions of international law under Article 36, Section 2, Subsection (b) of the Statute of the International Court of Justice. Maritime boundaries between states are applications of international law. The Court also has jurisdiction in this case under Article 38, Section 1, Subsection (a) of the Statute of the International Court of Justice, which states that the Court is afforded the function to decide disputes relating to "...international conventions, whether general or particular, establishing rules expressly recognized by the contesting states..." The United Nations Convention on the Law of the Sea (Law of the Sea) which governs maritime boundaries directs disputes among parties to be decided by the Court.
- b) Furthermore, the Court is the last legal remedy for resolving the dispute between Nicaragua and Honduras. All other legal action or negotiations have been exhausted as demonstrated by the naval confrontation between both parties. Additionally, a similar dispute related to the boundaries between Nicaragua and Honduras was addressed by the Court in 1960. Law of the Sea also directs, in conjunction with the United Nations Charter, that disputes regarding maritime boundaries will be decided by the Court.

The opinion of the Court is as follows:

To assess the merits of the allegations made by Nicaragua, the Court determined if: 1)

Nicaragua was sovereign at the time of the Arbitral Award by the King of Spain in 1906; 2) The existing maritime boundaries are appropriate and acceptable under international law; and 3) Honduras had the right to deploy military force against Nicaragua in response to the capture of a Honduran fishing vessel.

- a) In its 1960 decision, the Court decided that Nicaragua was independent, as declared in 1821 and recognized in 1850. Because of this, Nicaragua did have the right to maritime boundaries at the time of Honduras's independence and recognition. Since 1936, Nicaragua had a naval presence patrolling its waters. In 1906, the Arbitral Award by the King of Spain established an accepted maritime boundary between Honduras and Nicaragua starting at the mouth of the Coco River and extending along the 15th parallel. Because Nicaragua was a sovereign and recognized state at the time of the Arbitral Award, its agreement to such Award was binding and completed in competence.
- b) Under Part 2, Section 2, Article 3 of the Law of the Sea, the breadth of territorial sea and baseline for maritime boundaries may be 12 nautical miles from a coast. Under Part VI, Article 76, an economic zone can extend 200 nautical miles from a national shoreline. According to Article 4, Section 2 of the Convention on the Territorial Sea and Contiguous Zone, "The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters." Therefore, maritime boundaries may not be drastically different from the direction of a land border. Seeing that the modification suggested by Nicaragua does depart dramatically from the shape and angle of the Nicaraguan coastline, the Court will not consider the suggested change. The basis of the Nicaraguan baseline change is the mouth of the Coco River and thus not representative of the coastline as a whole. In this case, the Coco River constitutes the border between Nicaragua and Honduras, and the existing maritime boundary along the 15th parallel most closely follows the direction of its immediate end.

The Bobel Cay, Savanna Cay, Port Royal Cay, and South Cay along with the surrounding rocks and reefs may reasonably be considered an economic zone. Due to this, Nicaragua's maritime boundary does include these cays and their surrounding rocks and reefs.

- c) Under Article 2, Section 1 of the Law of the Sea, the sovereignty of a state extends beyond its land and into coastal waters. Under Article 2, Section 3 of the Law of the Sea, violations of maritime boundaries in coastal waters are subject to international law. And, as already stated, Article 3 of the Law of the Sea establishes the breadth of territorial sea, establishes that the waters in which a Honduras vessel was captured by the Nicaraguan coastal guard were Honduran. Therefore, Honduras had the right to deploy naval vessels and military force in response to the capture of its fishing vessel, seeing a direction violation of its national sovereignty.

The ruling of the Court is as follows:

The esteemed Court finds this case in favor of Honduras, and decides that the 15th parallel remains an appropriate maritime boundary between Nicaragua and Honduras. Nicaragua should find the maritime boundary acceptable given the trend of the mouth of the Coco River and the Court's 1960 decision. The Court orders that the maritime boundary between Nicaragua and Honduras be drawn at the 15th parallel and grants Honduras sovereignty over the Bobel Cay, Savannah Cay, Port Royal Cay, and South Cay along with surrounding rocks and reefs with respect to Law of the Sea protocols.

Justice Berman

Justice Calkins

Justice Carmona

Justice Carraher

Justice Delgado

Justice Hathaway

Justice Jackson

Justice Kroll

Justice Mercier

Justice Ruth

Justice Vining

Justice Westmaas
