

Bill Aims at International Drug Conspiracies

By David Ingram
The National Law Journal

January 19, 2011

Two congressmen introduced legislation Tuesday that would make it a crime to conspire in the United States about foreign drug trades, regardless of where the drugs would be headed.

The legislation is intended to override a 2007 ruling in the 11th U.S. Circuit Court of Appeals. In that case, a jury convicted two people of conspiring in Miami to transport cocaine from Caracas, Venezuela, to Paris, France, according to the court's ruling. But a three-judge panel vacated the convictions, ruling that federal prosecutors don't have clear legal authority regarding drug trades that do not involve U.S. territory.

The ruling has left a loophole in anti-trafficking laws, the congressmen say.

"Criminals who plot from within our borders to traffic drugs internationally should not be given a free pass just because the drugs they transport never enter the U.S.," said House Judiciary Committee Chairman Lamar Smith, R-Texas, in a statement. He added that profits from such deals "fuel violence and fund terrorism around the world."

The bill co-sponsored by Smith and Rep. Adam Schiff, D-Calif., would prohibit conspiracies "within the United States" to engage in conduct "at any place outside the United States" if that conduct, when committed in the United States, would violate anti-drug laws.

Miami lawyer G. Richard Strafer, who helped to represent the two defendants in the 11th Circuit, said in a phone interview Tuesday that he questions whether the law would be constitutional. Even aiming the law at conspiracies "within the United States" gives it only a "very tenuous connection" to U.S. authority, he said.

"I don't think there's any clause in the Constitution that would authorize our country to exercise extraterritorial jurisdiction" in drug trafficking cases, Strafer said.

A spokeswoman for the U.S. Justice Department had no immediate comment.