

United States v. Pre-Columbian Artifacts, [845 F. Supp. 544 \(N.D. Ill. 1993\)](#).

Location: Cultural property exported from Guatemala to the United States.

Applicable Laws: [National Stolen Property Act](#) (NSPA) ([18 U.S.C. §§ 2314 et seq.](#))

Where Laws Apply: *National Stolen Property Act*: Applies to “goods, wares, merchandise, securities, or money” valued at \$5,000 or more, which have been “stolen, converted or taken by fraud” then ***transported, transmitted, or transferred in interstate or foreign commerce***. (*Emphasis added*) (jurisdiction is over the trafficking in the United States – property may be stolen in the United States or abroad).

Holding: Under the NSPA, when artifacts are illegally exported from a foreign country they are considered “stolen” and subject to forfeiture. This is true even if the artifacts have not been reduced to possession by the foreign government but the foreign government has a law that, upon illegal exportation, the artifacts become property of the foreign government.

Overview:

The United States filed an interpleader action in a dispute involving the ownership of pre-Columbian artifacts alleged to have been illegally exported from Guatemala in violation of Guatemalan law. Guatemala’s law provides that upon export without authorization, artifacts become the property of Guatemala. (Article 21 of Guatemala’s “Congressional Law for the Protection and Maintenance of the Monuments, Archaeological, Historical, Artistic Objects and Handicrafts”). Guatemala alleges that under this law, the defendant’s exportation of the artifacts violated the NSPA. Defendants countered that Guatemala never owned the artifacts prior to their exportation and thus the defendants’ possession of the artifacts did not violate the NSPA.

In *United States v. McClain*, [593 F.2d 658 \(5th Cir. 1979\)](#), the Court held that the NSPA “protects ownership derived from foreign legislative pronouncements, even though the owned objects have never been reduced to possession by the foreign government.” Here, upon illegal export, the artifacts became Guatemalan property and therefore belonged to Guatemala when they were exported and in foreign commerce. Thus, the artifacts were subject to seizure as they were stolen property possessed in violation of the NSPA.