

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

VS.

CASE NO: 2:18-cr-88-FtM-38MRM

JACK W. TURTLE

OPINION AND ORDER¹

Before the Court is Defendant Jack W. Turtle's Motion to Dismiss the Superseding Information ([Doc. 57](#)) and the Government's response ([Doc. 58](#)).

The Government initially charged Turtle with seven counts of selling American alligator eggs in violation of the Lacey Act, [16 U.S.C. § 3371](#) *et seq.*, predicated on the Endangered Species Act ("ESA"), [16 U.S.C. § 1531](#) *et seq.* ([Doc. 1](#)). Turtle filed a motion to dismiss the information, which the Court denied. ([Doc. 52](#)). The Government then filed a superseding information, which added seven counts of taking American alligator eggs in violation of the ESA. ([Doc. 53](#)). Each new charge for taking eggs corresponds with one of the original charges for selling eggs.

Turtle now moves to dismiss the Superseding Information on the grounds raised in his first motion to dismiss. ([Doc. 57](#)). Both Turtle and the Government state that the Court can rule on the Motion to Dismiss the Superseding Information based on the same facts and arguments made with respect to the initial motion to dismiss. ([Doc. 57](#); [Doc.](#)

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58). The Court finds that the reasoning stated in its Order (Doc. 52) denying Turtle's initial motion to dismiss applies to the Superseding Information. That is, although Congress has not abrogated Turtle's right to take and sell alligator eggs, those rights are not unlimited. The Government can enforce reasonable and necessary conservation measures against Turtle, despite his membership in the Seminole Tribe of Florida. 50 C.F.R. § 17.42(a), which generally prohibits the taking and sale of American alligator eggs, is such a measure.

Accordingly, it is now

ORDERED:

Defendant Jack W. Turtle's Motion to Dismiss the Superseding Information (Doc. 57) is **DENIED**.

DONE AND ORDERED at Fort Myers, Florida, this February 20, 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: Counsel of Record