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### Court upholds ruling on 'seaman's manslaughter' in BP case

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NEW ORLEANS — A federal judge correctly dropped 11 “seaman’s manslaughter” charges against two BP supervisors in the deaths of workers killed when the Deepwater Horizon exploded in the Gulf of Mexico, a federal appeals court ruled Wednesday.

A three-judge panel of the 5th U.S. Circuit Court of Appeals said the federal law does not apply to Robert Kaluza and Donald Vidrine, the top BP employees on the rig when it blew wild in 2010 and started the nation’s worst offshore oil spill.

The decision could open the way for their trial on 11 counts of involuntary manslaughter and one of violating the Clean Water Act, if federal attorneys don’t ask for a rehearing or go to the U.S. Supreme Court.

BP and Kaluza’s attorney, Shaun Clarke, declined to comment. Vidrine’s attorney, Robert N. Habans Jr., did not immediately answer requests for comment. U.S. Justice Department spokesman Peter Carr said the department is reviewing the opinion.

U.S. District Judge Stanwood Duval Jr. has put the case on hold until the appeal is decided. He ruled in December 2013 that the BP employees were not responsible for marine operation, navigation or maintenance of the Deepwater Horizon, and therefore could not be charged with manslaughter under a law enacted in 1838 to prevent steamboat explosions and collisions on inland waterways.

Any negligence is enough to make someone liable for seaman’s manslaughter, while proof of “gross negligence” — wanton disregard for human life — is needed to convict someone for involuntary manslaughter. Seaman’s manslaughter carries up to 10 years in prison; involuntary manslaughter eight.

“The statute was enacted to address the dangers of travel by steamboat, and it is persons responsible for that travel that should be held liable under the statute,” Judge Patrick Higginbotham wrote. “Defendants were not responsible for the travel of the Deepwater Horizon.”

He heard the case in July with Judges Edith Jones and Edward Prado.

Philip Hilder, a Houston-based defense attorney for people accused of white-collar crimes who wrote in 2011 that there had been a resurgence of cases invoking the seaman’s manslaughter charge, said he has not noted a continued increase since the case against Vidrine and Kaluza was filed.

“It’s certainly in the prosecutor’s arsenal. But it’s not widely utilized,” he said. He described the panel’s ruling as a common-sense analysis.

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