

1 ELIZABETH A. STRANGE
Acting United States Attorney
2 District of Arizona

3 MATTHEW BINFORD
Arizona State Bar No. 029019
4 Assistant U.S. Attorney
Two Renaissance Square
5 40 N. Central Ave., Suite 1200
Phoenix, Arizona 85004
6 Telephone: 602-514-7756
7 Matthew.Binford@usdoj.gov
Attorneys for Plaintiff

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10
11 United States of America,
12 Plaintiff,

13 vs.

14 Thomas Mario Costanzo
a.k.a. Morpheus Titania,
15 Defendant.

No. CR-17-585-PHX-DJH

NOTICE OF AUTHORITY

16
17 At the detention hearing held earlier today, the government relied on *United States*
18 *v. Santos-Flores*, 794 F.3d 1088 (9th Cir. 2015), to support its argument that, in
19 determining whether detention was appropriate, the Court could rely on prior failure to
20 appear charges that did not result in convictions, and on the number of Costanzo’s prior
21 arrests. Although the government acknowledges that the Court’s ruling today was not
22 based on those specific factors, in an abundance of caution, and because specific citations
23 to the case were not provided to the Court during the hearing, the government provides the
24 following citations from the decision.

25 In *Santos-Flores*, the Ninth Circuit affirmed the District Court’s alternative ruling
26 that a defendant was a voluntary flight risk under 18 U.S.C. § 3142(e). In doing so, the
27 Court of Appeals specifically mentioned a “prior *charge* of failure to appear” in a separate
28 proceeding, and noted that the prior failure to appear was a “[p]rimary factor.” *Santos-*

1 *Flores*, 794 F.3d at 1092 (emphasis added). The Court of Appeals also referenced “a
2 number of other prior arrests” beyond the failure to appear charge. *Id.* The Court went on
3 to state that “[c]onsideration of a defendant’s record concerning appearance at court
4 proceedings and other past conduct is proper under 18 U.S.C. § 3142(g)(3)(A).” *Id.*

5 Respectfully submitted this 27th day of April, 2017.

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7 ELIZABETH A. STRANGE
Acting United States Attorney
District of Arizona

8
9 *s/ Matthew Binford*

10 MATTHEW BINFORD
Assistant U.S. Attorney

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15 **CERTIFICATE OF SERVICE**

16 I hereby certify that on the above filing date, I electronically transmitted the attached
document to the CM/ECF system.

17 *s/ Matthew Binford*
18 Matthew Binford
Assistant U.S. Attorney