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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,  
Plaintiff,

v.

Thomas Mario Costanzo,  
Defendant.

CR-17-00585-PHX-GMS

**SENTENCING MEMORANDUM**

The United States respectfully asks the Court to impose a sentence of 97 months in prison. For more than 30 years, Thomas Mario Costanzo—a recidivist offender with some violent incidents in his past—has committed state and federal crimes, and has failed to adjust his behavior. In this case, he laundered a substantial amount of money for people that he believed were international heroin and cocaine drug traffickers. For the reasons set forth below, a sentence of 97 months in prison is reasonable and appropriate under Title 18, United States Code, Section 3553(a).

1 **I. OFFENSE CONDUCT**

2 Over the course of approximately two years, Costanzo, also known as “Morpheus  
3 Titania,” laundered money by converting drug proceeds into bitcoin, in order to conceal or  
4 disguise the nature, location, source, ownership, or control of the drug money. Costanzo  
5 operated his bitcoin business in a manner that provided privacy and secrecy for his clients.  
6 Costanzo’s interactions with undercover law enforcement agents provide a snapshot into  
7 the means by which he conducted his business.

8 To be clear—Bitcoin is completely legal to own or purchase, but it is hard to trace.  
9 Bitcoin has legitimate uses, but it also has features that make it attractive to money  
10 launderers and drug dealers. Costanzo knew that and that was why he charged a 10 percent  
11 fee. That was why he charged a fee that was five times higher than the commercial  
12 exchanges. He knew that bitcoin transaction records on the blockchain did not include  
13 names, addresses, birth dates, or social security numbers. That is why he assured the  
14 undercover agents that Bitcoin was perfect for what they were doing. It was the perfect  
15 way to conceal and disguise the drug proceeds.

16 During those five charged transactions, and others, Costanzo bragged about the  
17 amount of money he made while engaging in this type of activity. He bragged that he had  
18 built a multi-million dollar business. He also bragged about his rules—don’t get shot, don’t  
19 get bit, and don’t talk to the police. He repeatedly cursed about the United States  
20 Government, and authority in general. He made it clear that he has no respect for laws,  
21 regulations, or any authority. When he promised not to say anything about the dirty money,  
22 he said, “that’s why you’re paying me” and “it’s part of my business model.”

23 Throughout the investigation, he suggested the use of emerging technology to  
24 support and enhance his criminal enterprise. He suggested that the agents use encrypted  
25 communication applications to coordinate the timing, location, and amounts of deals. He  
26 said things like “it makes it very, very difficult to triangulate your position,” and suggested  
27 that agents use dedicated hardware, like a TREZOR device, to protect their drug proceeds.  
28

1 He acknowledged that the system could be used to transport drug proceeds to far-flung  
2 locales, saying “where it really shines is doing international.” There is no doubt that  
3 Costanzo knew he was involved in serious criminal activity and that he used his specialized  
4 knowledge to support that ongoing criminal activity.

## 5 **II. HISTORY AND CHARACTERISTICS OF THE DEFENDANT**

6 Costanzo is a danger to the public who has no respect for the law and has not been  
7 deterred from criminal conduct. His history and characteristics show that he has violated  
8 various laws for the past 30 years and that prior sentences have not deterred him from  
9 criminal conduct.

10 Costanzo’s criminal history is extensive and most of his prior convictions do not  
11 receive criminal history points. (PSR ¶ 57.) His prior convictions include Assault,  
12 Unlawful Flight from Law Enforcement Vehicle, Battery, Failure to Obey Police Officer,  
13 Driving on a Suspended License (six times), Possessing a False or Cancelled Driver  
14 License, Failure to Show Driver License (two times), Possession of Marijuana (three  
15 times), and Resisting Arrest. (PSR ¶¶ 45–56.) In addition to his convictions, he has  
16 multiple prior arrests that did not result in convictions, including Theft, Felony Fleeing,  
17 Fleeing Police, Driving on a Suspended License, Carrying a Concealed Weapon without a  
18 Permit, Disorderly Conduct, and Resisting Arrest. (PSR ¶¶ 60–63.)

19 Many of these offenses have disturbing facts. For instance, in 2006, when Costanzo  
20 attempted to enter Scottsdale Municipal Court with a loaded handgun. (PSR ¶ 62.) Or the  
21 time when Costanzo led police officers on a pursuit, fleeing at more than 100 miles per  
22 hour before he was arrested and officers found marijuana in his pants pocket. (PSR ¶ 61.)  
23 There is also the time when he struck a woman “with a shopping cart, pinning her and  
24 knocking her down against a picnic bench.” (PSR ¶ 46.) Each of these instances  
25 demonstrates Costanzo’s continued disregard for the law and his disregard for the safety  
26 and well-being of others.

1 Nor will this be the first time Costanzo has been sentenced to a term of  
2 imprisonment. The last time he was in prison, he racked up 16 disciplinary violations in a  
3 two-year period. (PSR ¶ 45.)

4 **III. NEED TO PROMOTE RESPECT FOR THE LAW AND AFFORD**  
5 **ADEQUATE DETERRENCE**

6 A significant sentence is needed not only to deter Costanzo from engaging in future  
7 criminal behavior, but it is also needed to deter other individuals from using virtual  
8 currency to launder drug proceeds. In light of the growth of the dark web and the use of  
9 digital currency, criminal exchangers like Costanzo provide an avenue of laundering for  
10 those who use digital currency for illicit purposes. Illicit actors who obtain bitcoin from  
11 unlawful means (e.g., the sale of contraband) seek an outlet to exchange those funds for  
12 fiat cash (to reap the profits of their crime or to further layer transactions to avoid  
13 detection); criminals like Costanzo provide the perfect conduit. Peer-to-peer exchangers  
14 like Costanzo generally do not conduct customer due diligence, file transaction reports for  
15 cash transactions in excess of \$10,000, or file suspicious reports with the government. All  
16 that matters for a bitcoin money launderer is the profit—the price that a customer is willing  
17 to pay for this anonymity. For an illicit actor, that price is simply a cost of doing criminal  
18 business.

19 In addition to providing an outlet for individuals to “cash out” or “cash in” to buy  
20 or sell contraband, exchangers like Costanzo enable traditional drug traffickers to fly under  
21 the radar. Established drug trafficking organizations can pay people like Costanzo a small  
22 fee to convert their bulk cash into something that can be held on an electronic device and  
23 transported across the country or across international borders without scrutiny from law  
24 enforcement. Exchangers involved in money laundering like Costanzo make it possible  
25 for these criminal organizations to avoid detection and bypass federal banking regulations  
26 that seek to prevent the type of activity that is made possible by criminal exchangers like  
27 Costanzo.

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1 In prosecuting exchangers like Costanzo, the government is able to mitigate the  
2 opportunities for actors utilizing digital currency illicitly to convert those proceeds into fiat  
3 currency. A custodial sentence of 97 months in this case will signal that the use of cutting-  
4 edge technology to launder dirty money is a serious offense, and that those that provide  
5 ways to bypass that system will be held accountable for their actions and face appropriate  
6 consequences, as Congress and the Sentencing Commission intended. That is particularly  
7 the case here, where Costanzo used sophisticated means to facilitate laundering for real as  
8 to a civilian trial witness, and agreed to launder funds represented to be cocaine and heroin  
9 proceeds with several undercover agents.

#### 10 **IV. THE APPLICABILITY OF A VARIANCE**

11 The PSR calculates a guideline sentence of 121-151 months, and also recommends  
12 the low end of that particular range. As more fully explained in its Response to the  
13 Objections to the PSR (doc. 219), the United States concurs with the guideline range as the  
14 starting point to the sentencing analysis, and further agrees that no downward departures  
15 apply.

16 To the extent the Court calculates the same guideline range as the United States and  
17 the Probation Officer, and in an effort to balance the equities in a sting case, the government  
18 recommends a two-level downward variance. In particular, although Costanzo's  
19 sentencing entrapment and manipulation arguments are not well-founded under Circuit  
20 precedent, a small variance would more accurately place his actions in the final sting in  
21 context with the overall nature and characteristics of the offense. *E.g., Gall v. United*  
22 *States*, 552 U.S. 38, 51 (2007) (upholding downward variance based on the section 3553  
23 factors). The final \$107,000 sting in April 2017 – following on the heels of a meetup with  
24 Costanzo and his banker earlier that month – established that third parties could provide  
25 him with a large amount of funds, which reflect a substantial increase over prior  
26 transactions, even on short notice. To be clear, Costanzo willingly upped his ante with law  
27 enforcement on the day of his arrest, but his actions were not the entire focus on the final  
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1 sting, and a two-level downward variance<sup>1</sup> would be consistent with his actions in the larger  
2 context.

3 To the extent the Court otherwise adjusts the guideline range downward by two or  
4 more levels, or departs downward by two or more levels, or does any combination of the  
5 above that lowers the total offense level by two or more levels, the United States does *not*  
6 recommend the two-level downward variance.

7 **V. CONCLUSION**

8 Costanzo was engaged in serious criminal conduct and has a long history of  
9 violating the law. He, and others, need serious deterrence from this type of behavior. The  
10 government recommends that Costanzo be sentenced to 97 months in prison, to be followed  
11 by three years of supervised release. As detailed above, a 97-month sentence is sufficient  
12 but not greater than necessary to comply with the factors set forth under 18 U.S.C.  
13 § 3553(a).

14  
15 Respectfully submitted this 20th day of July, 2018.

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27 <sup>1</sup> In other words, from a fairness perspective the Court in imposing its sentence could  
28 substitute \$30,000 [the amount of the most recent prior transaction] for \$107,000 in the  
final transaction. From a volume perspective under U.S.S.G. § 2B1.1, the variance would  
reflect an artificial, adjusted volume of laundered funds of \$117,700 instead \$194,700.

**CERTIFICATE OF SERVICE**

1  
2 I hereby certify that on this 20th day of July 2018, I electronically transmitted the  
3 attached document to the Clerk's Office using the CM/ECF System for filing and  
4 transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

5 Maria Teresa Weidner & Zachary Cain  
6 Assistant Federal Public Defenders  
7 *Attorneys for Defendant*

8 s/ Gary Restaino  
9 U.S. Attorney's Office  
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