

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

1	United States of America,)	
2)	
3)	
4)	
5	Plaintiff,)	CR-17-00585-PHX-GMS (DKD)
6	vs.)	Phoenix, Arizona
7)	April 21, 2017
8	Thomas Mario Costanzo,)	3:15 p.m.
9)	
10)	
11	Defendant.)	
12	_____)	

BEFORE: THE HONORABLE EILEEN S. WILLETT, MAGISTRATE JUDGE

TRANSCRIPT OF PROCEEDINGS

INITIAL APPEARANCE

A P P E A R A N C E S

For the Government:

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Proceedings Recorded by Electronic Sound Recording
Transcript Produced by Transcriptionist

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P R O C E E D I N G S

(Court was called to order by the courtroom deputy.)

(Defendant present and in custody.)

(Proceedings begin at 3:15.)

COURTROOM DEPUTY: Case number 17-9153-mj, *United States of America v. Thomas Mario Constanzo*, on for initial appearance.

MS. KARLEN: Good afternoon again, Your Honor. Melissa Karlen appearing on behalf of the United States.

THE COURT: Good afternoon.

MS. WEIDNER: Good afternoon, Your Honor. Maria Weidner standing by for possible appointment in Mr. Constanzo's case. He's present and in custody. Your Honor, could I approach?

THE COURT: Please.

Good afternoon, sir.

THE DEFENDANT: Hello.

THE COURT: The Court has received a financial affidavit. I do find the defendant to be indigent and I appoint counsel to represent him.

Sir, please raise your right hand. We're going to swear you in.

(Whereupon the defendant was sworn.)

THE COURT: Sir, you have been sworn. You must answer all questions truthfully. However, you do have the

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1 right to remain silent. Anything you say can be used against
2 you. If you're not U.S. citizen, you have the right to have a
3 consular officer from your country of nationality notified that
4 you've been arrested. Even without your request, however, a
5 treaty or other international agreement may require consular
6 notification. You do have the right to counsel. I have
7 appointed an attorney to represent you. She's going to help
8 you through the entire process from beginning to end at no cost
9 to you.

10 Sir, the reason that you're here is because there was
11 a criminal complaint that was filed against you today.

12 Counsel, did you go over that criminal complaint with
13 your client?

14 It charges you, sir, with possession of ammunition as
15 a felon.

16 MS. WEIDNER: Yes, Your Honor, I did.

17 THE COURT: Is his name correct on it?

18 MS. WEIDNER: Yes, Your Honor, it is.

19 THE COURT: All right.

20 MS. WEIDNER: He also waives a formal reading.

21 THE COURT: And is the Government seeking detention
22 in this matter?

23 MS. KARLEN: Yes, Your Honor.

24 THE COURT: And did you talk to him about his right
25 to a preliminary hearing and a detention hearing and what would

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1 he like to do? Would he like a status hearing with regard to
2 the preliminary hearing and a detention hearing?

3 MS. WEIDNER: Yes, Your Honor. That is the case and
4 we have been advised that there's time available before Judge
5 Burns on the 26th at 3:30.

6 THE COURT: I do have an available hearing date. I
7 show the 25th. I have a hearing date for you, a status
8 hearing, sir, with regard to the issue of your right to a
9 preliminary hearing and then a detention hearing on 4-25-2017
10 and that is at 3:30 p.m.

11 Sir, you're going to be before Judge Burns. You are
12 temporarily detained pending that hearing. Your attorney is
13 going to be back in contact with you shortly to talk to you
14 about it to prepare you for it.

15 MS. WEIDNER: And that is the 25th, a Tuesday, Your
16 Honor?

17 THE COURT: I do not have a calendar in front of me,
18 do I?

19 COURTROOM DEPUTY: Yes.

20 MS. WEIDNER: Thank you.

21 THE COURT: The 25th is Tuesday. Yes, it is Tuesday.

22 COURTROOM DEPUTY: Mr. Garcia?

23 (Recess at 3:19; resumed at 3:30.)

24 COURTROOM DEPUTY: I'm recalling case number
25 17-9153-mj, *United States of America v. Thomas Mario Constanzo*,

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1 on for status hearing.

2 MS. KARLEN: Good afternoon, Your Honor. Melissa
3 Karlen appearing on behalf of the United States.

4 THE COURT: Good afternoon, Ms. Karlen.

5 MS. WEIDNER: Good afternoon, Your Honor. Maria
6 Weidner for Mr. Costanzo.

7 THE COURT: Good afternoon, Ms. Weidner.

8 Good afternoon, Mr. Costanza again.

9 Go right ahead.

10 MS. WEIDNER: Your Honor, thank you for recalling
11 this matter. Shortly -- well, we set the hearing for the 25th
12 of April at 3:30 before I had had an opportunity to review the
13 Pretrial Services report. Based on the substance of the
14 Pretrial Services report, we would ask for this -- for the
15 detention hearing and status hearing regarding preliminary
16 hearing to be reset for the 27th of April, a Tuesday -- not a
17 Tuesday, a Thursday, so that Mr. Costanzo can be prescreened
18 for possible placement at Crossroads. We would also move the
19 Court to order him to be prescreened and we are making this
20 request because prescreenings happen by video teleconference on
21 Wednesdays.

22 THE COURT: Could I take a look at your Pretrial
23 Services report?

24 MS. WEIDNER: Yes, Your Honor. May I approach?

25 THE COURT: Yes. Please do.

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1 Thank you.

2 You're asking him to be screened for Crossroads? I'm
3 looking at his substance abuse history. It says he has been
4 sober for 30 years.

5 MS. WEIDNER: Yes, Your Honor, but Pretrial Services
6 also says in their recommendation that they are concerned about
7 his substance abuse history. And so in an abundance of
8 caution, I would like him to be prescreened for Crossroads so
9 that that is an option available to the Court.

10 THE COURT: His UA was also negative when he came in?

11 MS. WEIDNER: Yes, Your Honor.

12 THE COURT: And he does not feel that he needs
13 treatment for alcohol or drug abuse because of his sobriety.

14 MS. WEIDNER: I understand, Your Honor. That was
15 what took place between him and the Pretrial Services officer
16 earlier today.

17 However, when I advised Mr. Costanzo of my concerns
18 regarding possibilities for release based on Pretrial Services'
19 recommendations and their -- and the basis for those
20 recommendations, he said he would be willing to go through a
21 treatment program if that would facilitate his release. It
22 would be a sad thing if we were to show up at his detention
23 hearing and the Court to say, "Well, I think you need
24 treatment," and, unfortunately, something that I have noticed
25 in my practice here is that when someone has a history of

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1 substance abuse, even if they have a period of sobriety, that
2 has not dissuaded courts from wanting individuals to
3 participate in treatment and testing.

4 THE COURT: Well, I am looking at the NCIC and it
5 does reflect a 2015 conviction for possession and use of
6 marijuana. So I will go ahead and I will order a screening
7 unless there is any objection.

8 Is there any objection?

9 MS. KARLEN: I defer to the Court.

10 THE COURT: That would be inconsistent with his
11 reported history of 30 years of sobriety, so I will go ahead
12 and order that.

13 And you will be prescreened, sir, then for Crossroads
14 and we'll go ahead and we'll continue your status hearing on
15 the preliminary hearing and then your detention hearing for
16 April 27. That gives you the opportunity to be prescreened.
17 10:30 a.m. and that is still before Judge Burns.

18 Thank you, Ms. Weidner.

19 MS. WEIDNER: Thank you, Your Honor.

20 THE COURT: And, here, Ms. Weidner, back.

21 MS. WEIDNER: Oh, yes. Thank you.

22 (Proceedings concluded at 3:36 p.m.)
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C E R T I F I C A T E

I, ELAINE M. CROPPER, court-approved transcriber, certify that the foregoing is a correct transcript, to the best of my skill and ability, from the official electronic sound recording of the proceedings in the above-entitled matter.

DATED at Phoenix, Arizona, this 23rd day of January, 2018.

s/Elaine M. Cropper

Elaine M. Cropper

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