

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

APRIL CASTRO,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

APPENDIX

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APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-10292
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 16, 2019

Lyle W. Cayce
Clerk

D.C. Docket No. 5:18-CR-64-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

APRIL CASTRO,

Defendant - Appellant

Appeal from the United States District Court for the
Northern District of Texas

Before KING, GRAVES, and WILLETT, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is affirmed.

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 19-10292
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December 16, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

APRIL CASTRO,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:18-CR-64-1

Before KING, GRAVES, and WILLETT, Circuit Judges.

PER CURIAM:*

April Castro appeals the 57-month sentence imposed following her guilty plea convictions for uttering and possessing forged and counterfeit securities of an organization and possession of stolen mail. Castro contends that the district court erred in calculating the intended loss under the advisory guidelines. In particular, she contends that the district court erred by using the average value of the forged blank checks and the pre-prepared checks in

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 19-10292

assigning a value to the 479 blank checks and money orders found in her possession at the time of her arrest. Castro contends that including the value of the pre-prepared checks inflated the intended loss estimate, thereby resulting in an unreasonable loss calculation in light of the record.

The district court's method of calculating loss under the Guidelines is a question of law that is reviewed de novo. *United States v. Lige*, 635 F.3d 668, 671 (5th Cir. 2011). "The district court receives wide latitude to determine the amount of loss and should make a reasonable estimate based on available information." *United States v. Jones*, 475 F.3d 701, 705 (5th Cir. 2007); see U.S.S.G. § 2B1.1, comment. (n.3(C)). We have previously approved the use of averages in estimating intended loss. See *United States v. Chappell*, 6 F.3d 1095, 1101 (5th Cir. 1993). Castro has not shown that the district court erred in the methodology used to calculate the intended loss. See *id.* Accordingly, the judgment of the district court is AFFIRMED.

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-10292

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

APRIL CASTRO,

Defendant - Appellant

Appeal from the United States District Court
for the Northern District of Texas

ON PETITION FOR REHEARING

Before KING, GRAVES, and WILLETT, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is denied.

ENTERED FOR THE COURT:

/s/ Carolyn Dineen King

UNITED STATES CIRCUIT JUDGE

APPENDIX C

United States District Court**Northern District of Texas**

Lubbock Division

UNITED STATES OF AMERICA

v.

APRIL CASTRO
Defendant.Case Number: 5:18-CR-00064-C(01)
USM No. 57758-177**JUDGMENT IN A CRIMINAL CASE**
(For Offenses Committed On or After November 1, 1987)

The defendant, APRIL CASTRO, was represented by David E. Sloan.

On motion of the United States, the court has dismissed the remaining count of the indictment as to the defendant.

The defendant pleaded guilty to count 1 and 3 of the indictment filed July 22, 2018. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number</u>
18 U.S.C. § 513(a)	Uttering and Possessing Forged and Counterfeit Securities Of An Organization	12/19/2017	1
18 U.S.C. § 1708	Possession Of Stolen Mail	12/19/2017	3

As pronounced on March 1, 2019, the defendant is sentenced as provided in pages 1 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$200.00, for counts 1 and 3 of the indictment, which shall be due immediately. Said special assessment shall be made to the Clerk, U.S. District Court.

It is further ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material change in the defendant's economic circumstances.

Signed this the 1st day of March, 2019.



SENIOR DISTRICT JUDGE SAM R. CUMMINGS
UNITED STATES DISTRICT COURT

DEFENDANT: APRIL CASTRO
CASE NUMBER: 5:18-CR-00064-C(01)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 57 months as to count 1 and count 3 to run consecutive to any sentence imposed in Case No. 2017-412,744, pending in the 137th District Court, Lubbock County, Texas; and concurrent with any sentence imposed in the following cases: Case Nos. 2018-414,241; 2018-414,241; 2017-413,843; 2017-413,757; and 2018-414,571, all pending in the 137th District Court, Lubbock County, Texas.

The defendant shall remain in the custody of the U.S. Marshal Service.

The Court recommends incarceration at FCI Bryan, Texas.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: APRIL CASTRO
CASE NUMBER: 5:18-CR-00064-C(01)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years as to count 1 and count 3.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer.
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense.
- ☐ The defendant shall participate in an approved program for domestic violence.
- ☐ The defendant must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Fine and Restitution sheet of the judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: APRIL CASTRO
CASE NUMBER: 5:18-CR-00064-C(01)

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall abstain from the use of alcohol and all other intoxicants during the term of supervision.
2. The defendant shall participate in mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$5.00 per month.
3. The defendant shall participate in a program (inpatient and/or outpatient) approved by the U.S. Probation Office for treatment of narcotic, drug, or alcohol dependency, which will include testing for the detection of substance use or abuse. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$5.00 per month.
4. Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant shall immediately pay restitution in the amount of \$26,047.65 payable to the U.S. District Clerk, 1205 Texas Avenue, Lubbock, Texas 79401, for disbursement to:

BRIAN WEST	\$5,575.65
CELL ENERGY	\$455.93
COLLISION KING	\$262.56
DORIS RIVES	\$80.00
FIRST NATIONAL BANK OF TEXAS	\$490.64
JESSICA ROCHA	\$1,535.56
LINDA DEUVALL	\$166.72
REBECCA LEAL	\$1,600.00
SALON MAGIC	\$85.28
SHARKEY CUSTOM HOMES	\$1,200.00
TEXAS BODY AND FRAME	\$14,595.31

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance beginning 60 days after release from custody at the rate of at least \$50.00 per month until the restitution is paid in full.

5. The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant has fully satisfied the restitution obligation.

DEFENDANT: APRIL CASTRO
CASE NUMBER: 5:18-CR-00064-C(01)

RESTITUTION

Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant shall immediately pay restitution in the amount of \$26,047.65, payable to the U.S. District Clerk, 1205 Texas Avenue, Room 209, Lubbock, TX 79401, for disbursement to:

Restitution of \$26,047.65 to:

BRIAN WEST
\$5,575.65

CELL ENERGY
\$455.93

COLLISION KING
\$262.56

DORIS RIVES
\$80.00

FIRST NATIONAL BANK OF TEXAS
\$490.64

JESSICA ROCHA
\$1,535.56

LINDA DEUVALL
\$166.72

REBECCA LEAL
\$1,600.00

SALON MAGIC
\$85.28

SHARKEY CUSTOM HOMES
\$1,200.00

TEXAS BODY AND FRAME
\$14,595.31

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance beginning 60 days after release from custody at the rate of at least \$50.00 per month until the restitution is paid in full.

The Court determines that the defendant does not have the ability to pay interest and therefore waives the interest requirement pursuant to 18 U.S.C. § 3612(f)(3).