No.________

IN THE
SUPREME COURT OF THE UNITED STATES

Motty Mizrahi,

Petitioner,

v.

UNITED STATES OF AMERICA.

Respondent

On Petition For Writ of Certiorari
To The United States Court of Appeals
For the Ninth Circuit

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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INDEX TO APPENDICES

Appendix A

NOT FOR PUBLICATION

FILED

OCT 1 2025

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Appellee, v. MOTTY MIZRAHI, Appellant.	No. 23-4399 D.C. No. 2:19-cr-00415-CJC-1 MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Argued and Submitted September 4, 2025
Portland, Oregon

Before: BADE and SUNG, Circuit Judges, and SIMON, District Judge.**

Motty Mizrahi ("Mizrahi") pleaded guilty to six counts of wire fraud in violation of 18 U.S.C. § 1343 (Counts 1-6) and one count of aggravated identity theft in violation of 18 U.S.C. § 1028A(a)(1) (Count 7). The district court denied

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable Michael H. Simon, United States District Judge for the District of Oregon, sitting by designation.

Mizrahi's motion to withdraw his guilty plea to Count 7 and sentenced him to a term of imprisonment of 84 months on Counts 1-6 followed by 24 months on Count 7. Mizrahi appeals the denial of his motion, his conviction on Count 7, and his sentence. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

From 2012 to 2019, Mizrahi and his older brother defrauded members of their religious community out of millions of dollars. Mizrahi made material misrepresentations and, after losing substantial investor funds, used later investments partially to repay and lull earlier investors. Mizrahi also worked for a private, religious high school. In that role, he obtained the signature of the school's treasurer on school checks with the payee's name left blank. Rather than using these checks for authorized purposes, Mizrahi deposited many into his own bank account, ultimately embezzling $547,263 from the school. He then used some of this embezzled money to pay—and lull—prior investors.

1. Mizrahi argues that the district court erred when it denied his motion to withdraw his plea of guilty. "We review the denial of a motion to withdraw a guilty plea for abuse of discretion." *United States v. Hernandez*, 105 F.4th 1234, 1238 (9th Cir. 2024). A defendant may withdraw his guilty plea before the sentence is imposed if "the defendant can show a fair and just reason for requesting the withdrawal." FED. R. CRIM. P. 11(d)(2)(B). A fair and just reason can include "intervening circumstances," including a "change in the law." *United States v.*

Rodriguez-Gamboa, 946 F.3d 548, 551 (9th Cir. 2019). A change in the law may justify the withdrawal of a plea when there is "[a] marked shift in governing law that gives traction to a previously foreclosed or unavailable argument." *United States v. Ensminger*, 567 F.3d 587, 592 (9th Cir. 2009).

A grand jury returned a First Superseding Indictment against Mizrahi and his brother. Shortly before trial was set to begin against both, Mizrahi pleaded guilty to all seven counts. A jury subsequently found Mizrahi's brother guilty on five out of six counts of wire fraud. Before the district court sentenced either defendant, the Supreme Court decided *Dubin v. United States*, 599 U.S. 110 (2023). Two months later, Mizrahi moved to withdraw his guilty plea to aggravated identity theft, arguing that his conduct, albeit fraudulent, did not fall within the scope of that federal crime. Denying Mizrahi's motion, the district court ruled that *Dubin* did not change prior Ninth Circuit law.

We agree. In *Dubin*, the Supreme Court confirmed that "[a] defendant 'uses' another person's means of identification 'in relation to' a predicate offense when this use is at the crux of what makes the conduct criminal," explaining that the defendant's misrepresentation must generally go to the "who" of the misrepresentation, not merely the "how" or "when." *See Dubin*, 599 U.S. at 116 & n.2, 131-32. That reasoning is consistent with our earlier opinions, including *United States v. Hong*, 938 F.3d 1040, 1050-51 (9th Cir. 2019), where we held that a defendant does not "use" his patients' identities when he merely misrepresents the services provided to those patients, and *United States v. Harris*, 983 F.3d 1125 (9th Cir. 2020), where we held that a defendant "uses" a means of identification under § 1028A when the means of identification is both "central to the wire fraud" and used to "further or facilitate" the fraud. 938 F.3d at 1127-28. In *Harris*, we relied on a Sixth Circuit decision, *United States v. Michael*, 882 F.3d 624 (6th Cir. 2018), which *Dubin* cited favorably. *Compare Harris*, 983 F.3d at 1128, *with Dubin*, 599 U.S. at 117, 123, 132.

2. Mizrahi also contends that the facts do not support his conviction for aggravated identity theft.[1] Although Mizrahi did not raise this argument during his plea colloquy, he preserved the issue in his motion to withdraw his plea. Further, a district court abuses its discretion when it makes an error of law. *Koon v. United States*, 518 U.S. 81, 100 (1996). Mizrahi admitted that, without lawful authority, he used one of the school's checks, signed by the school's treasurer, during and in relation to a violation of the wire fraud statute. The proceeds of the check were used to lull an investor. Because "a signature is a name," it is a "means of

[1] The aggravated identity theft statute provides, in relevant part: "Whoever, during and in relation to any [enumerated] felony . . ., knowingly . . . uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years." 18 U.S.C. § 1028A(a)(1). Wire fraud is one of the enumerated felonies. *Id.* at § 1028A(c)(5).

identification." *See United States v. Blixt*, 548 F.3d 882, 887 (9th Cir. 2008).[2] Mizrahi's misuse of the signature was at the crux of what made his conduct illegal and is thus sufficient to satisfy *Dubin*.

3. Mizrahi argues that applying § 1028A(a)(1) here violates principles of federalism and that the statute is unconstitutionally vague. Because he did not raise these arguments below, we review for plain error. *See United States v. Bain*, 925 F.3d 1172, 1176 (9th Cir. 2019). Thus, to obtain relief, Mizrahi must show: (1) "an error or defect"; (2) that was "clear or obvious, rather than subject to reasonable dispute"; (3) that "affected [his] substantial rights"; and (4) that "seriously affects the fairness, integrity or public reputation of judicial proceedings." *Puckett v. United States*, 556 U.S. 129, 135 (2009) (brackets omitted). "An error cannot be plain where there is no controlling authority on point and where the most closely analogous precedent leads to conflicting results." *United States v. De La Fuente*, 353 F.3d 766, 769 (9th Cir. 2003).

The application of 18 U.S.C. § 1028A here is consistent with federalism. Mizrahi's predicate offense was a violation of a federal law. Further, he fails to identify any controlling authority holding either that § 1028A violates federalism or is unconstitutionally vague. This alone is fatal to Mizrahi's arguments under

[2] That *Blixt* involved a forged signature is not relevant to this point. We have previously held that § 1028A(a)(1) does not require impersonation, assuming an identity, or passing oneself off as a particular person. *See Harris*, 983 F.3d at 1128.

plain-error review.[3]

4. At sentencing, Mizrahi conceded a 16-level guideline enhancement for actual losses exceeding $1.5 million but objected to the district court's 18-level enhancement for actual losses exceeding $3.5 million. U.S.S.G. § 2B1.1(b)(1)(J). "We review the district court's factual findings for clear error, its construction of the United States Sentencing Guidelines de novo, and its application of the Guidelines to the facts for abuse of discretion." *United States v. Harris*, 999 F.3d 1233, 1235 (9th Cir. 2021).

The district court found actual losses of $5,024,983, consisting of $4,477,720 sustained by almost three dozen investors plus $547,263 suffered by the school that employed Mizrahi. These findings were supported by documents that were provided to Mizrahi during discovery and a chart that the government filed with its sentencing position. Although the court also considered two summary charts that were not provided to Mizrahi during discovery, the government had previously used those charts during its cross-examination of Mizrahi during his brother's trial.

Mizrahi argues that the district court should have used the Securities and Exchange Commission's ("SEC") lower loss calculation in an earlier civil lawsuit.

[3] Although Mizrahi cites Justice Gorsuch's separate opinion in *Dubin* concurring in the judgment, no other Justice joined that opinion.

Rejecting that argument, the court accepted the government's explanation that the SEC's analysis relied on a different methodology and timeframe. The district court did not clearly err or abuse its discretion.[4]

5. The district court imposed a two-level "sophisticated means" enhancement. U.S.S.G. § 2B1.1(b)(10)(C). Mizrahi argues that his fraud was not especially complex. He held himself out, however, as a sophisticated money manager well enough to deceive nearly three dozen investors out of millions of dollars. Mizrahi misrepresented being a licensed broker or certified public accountant, to encourage members of his community to invest with him. He also assured clients that the funds remained in cash but leveraged small amounts using sophisticated option and insurance-hedging strategies. He created a prospectus showing false historical returns and fake account statements with inflated balances. To do this persuasively during a seven-year period required sophistication. Further, Mizrahi lulled investors not to alert authorities, which also requires sophisticated means. *See generally United States v. Lane*, 474 U.S. 438, 451-52 (1986) (discussing mailings designed to lull victims into a false sense of security, postpone their ultimate complaint to authorities, and make the defendants' apprehension less likely). Thus, the district court neither clearly erred nor abused

[4] Mizrahi also appeals the district court's alternative finding based on "intended" loss. Because that was only an alternative finding by the district court, we need not consider that argument.

its discretion in finding that Mizrahi used sophisticated means.

6. The district court imposed a two-level enhancement because the offense involved ten or more victims. U.S.S.G. § 2B1.1(b)(2)(A)(i). Mizrahi does not appeal from that finding. The same enhancement can also be made if the offense caused "substantial financial hardship to one or more victims." U.S.S.G. § 2B1.1(b)(2)(A)(iii). At sentencing, the district court expressed its "preliminary thoughts" regarding § 3553(a) factors, including "the devastating loss to the high school which had to close because of Mr. Mizrahi's misappropriation of its funds." The court then invited comments from the parties.

Mizrahi argues that "it is a 'significant procedural error' for a sentencing judge to 'choose a sentence based on clearly erroneous facts.'" *United States v. Johnston*, 789 F.3d 934, 943 (9th Cir. 2015) (quoting *United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc)). After the court offered its "preliminary thoughts," Mizrahi's counsel stated that the school closed three years after the embezzlement and the school's website disclosed several reasons for the closure without ever mentioning Mizrahi.

"A finding is clearly erroneous if it is illogical, implausible, or without support in the record." *United States v. Graf*, 610 F.3d 1148, 1157 (9th Cir. 2010). Mizrahi embezzled $547,263 from the school where he worked from 2012-2019. At sentencing, the district court reviewed the presentence report, and the presentence report includes information supporting the district court's statements regarding the school closure. Mizrahi never objected to any of these statements in the presentence report. Even if the district court's "preliminary thoughts" rise to the level of a factual finding on which Mizrahi's sentence was based, which is questionable, such a finding would not be illogical, implausible, or without support in the record and, thus, not clearly erroneous. *See United States v. Romero-Rendon*, 220 F.3d 1159, 1161 (9th Cir. 2000) (the court may rely on an unchallenged presentence report to find facts at sentencing).[5]

AFFIRMED.

[5] We deny the pending motion for judicial notice because it is not necessary for the court to consider the 2016 prosecutorial memo to resolve this appeal. Further, it is not generally appropriate to take judicial notice to "establish the legal principles governing the case," and Mizrahi relies on that memo to show that § 1028A is vague. *See Von Saher v. Norton Simon Museum of Art*, 592 F.3d 954, 960 (9th Cir. 2010) (quoting *Toth v. Grand Trunk R.R.*, 306 F.3d 335, 349 (6th Cir. 2002)).

Appendix B

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 6 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MOTTY MIZRAHI,

Defendant - Appellant.

No. 23-4399

D.C. No.
2:19-cr-00415-CJC-1
Central District of California,
Los Angeles

ORDER

Before: BADE and SUNG, Circuit Judges, and SIMON, District Judge.*

The panel has voted to deny the petition for rehearing. Judges Bade and Sung have voted to deny the petition for rehearing en banc, and Judge Simon has so recommended. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40.

The petition for panel rehearing and the petition for rehearing en banc are DENIED.

* The Honorable Michael H. Simon, United States District Judge for the District of Oregon, sitting by designation.

Appendix C

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE CORMAC J. CARNEY, U.S. DISTRICT JUDGE

UNITED STATES OF AMERICA, Plaintiff, vs. MOTTY MIZRAHI, Defendant.	**CERTIFIED TRANSCRIPT** Case No. 2:19-cr-00415-CJC-1

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SENTENCING

MONDAY, DECEMBER 18, 2023

9:02 A.M.

SANTA ANA, CALIFORNIA

DEBBIE HINO-SPAAN, CSR 7953, CRR
FEDERAL OFFICIAL COURT REPORTER
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ALSO PRESENT:

Richard Higgins, FBI Special Agent

SANTA ANA, CALIFORNIA; MONDAY, DECEMBER 18, 2023

9:02 A.M.

- - -

09:02AM THE COURTROOM DEPUTY: Calling Item Number 1, CR-19-415, United States of America vs. Motty Mizrahi.

Counsel, please state your appearances.

MR. COHEN: Good morning, Your Honor. Assistant U.S. Attorney Morgan Cohen on behalf of the United States. 09:03AM With me at counsel table is FBI Special Agent Richard Higgins.

THE COURT: Good morning to both of you.

MR. HANUSZ: Good morning, Your Honor. John Hanusz for Motty Mizrahi, who is present on bond.

THE COURT: Hello, Mr. Hanusz.

09:03AM Hello, Mr. Mizrahi.

Please be seated.

Mr. Hanusz, I just want to confirm with you that you've had an opportunity to go over the Revised Presentence Investigation Report with Mr. Mizrahi.

09:03AM MR. HANUSZ: I have, Your Honor.

THE COURT: Terrific. What I thought we would do is first hear from any victims who would like to make a statement. Then I have one issue I wanted to discuss with counsel concerning the guideline calculation, and then I will give you 09:03AM what I believe is the correct guideline calculation for the alleging that Motty had -- Mr. Motty Mizrahi had anything to do with that or that, as far as we know today, that there was anything actionable about that conduct.

There were also references to a dispute between Sassi -- or both of the victims' family members and Ms. Chitrit outside the Court. I did witness that personally, but I just want to clarify that Motty Mizrahi was not there, and the Government is not alleging that he was involved in that to any degree.

And, finally, there was a reference to a report right before trial about the police going to Ms. Chitrit's house to inquire as to the welfare of her child. That certainly did happen. The Government did find the timing suspicious. I can say it was completely unsubstantiated, as far as we know.

But the point I want to make is the Government has no evidence that Motty Mizrahi was involved in any of those particular events. So I just wanted to clarify that for the record.

THE COURT: I appreciate that clarification. I'll rely on that clarification. I am not going to consider that in any way with respect to the sentencing of Mr. Mizrahi.

So I used the November 1st, 2023, edition of the Sentencing Guidelines, and I calculated the total offense level at 28. There was a base offense level of seven levels pursuant to Section 2B1.1(a)(1). I adopted the findings and analysis of paragraph 83 of the Revised Presentence Investigation Report and agree with the parties that 7 is the correct base offense level because Mr. Mizrahi was convicted of wire fraud that has a statutory maximum term of imprisonment of 20 years.

I then applied an 18-level increase for loss being greater than $3.5 million pursuant to Section 2B1.1(b)(1)(J). I adopted the findings and analysis on pages 4 and 5 and 6 and 7 of the Government's sentencing position and the attached declaration of Special Agent Higgins.

I agree with the Government and Probation that the victims invested a total amount of $7,301,075, and that the actual loss suffered by them was $5,024,983.19. That has two components to it. One is what we call the intended loss -- which I do feel in this case is appropriate because it tracks the mens rea and intent of not only Motty Mizrahi but Sassi Mizrahi as well -- that that money was invested as part of a fraudulent scheme.

But I do feel, for purposes of the guideline analysis, that the actual loss was $5,024,983.19 based on the compelling evidence that was presented at trial. And the summary charts that list the number of victims and their actual loss or restitution that needs to be owed, I do think is sufficiently reliable for calculating the offense level and is a typical summary chart of underlying documents that would be too voluminous and too difficult to bring into the sentencing hearing.

For purposes of appeal, if there is going to be one, I would suggest to the Government that you somehow put those documents -- on a disc -- that were specifically relied on so then the Circuit can make their own analysis on whether I'm correct that I do think that's reasonably reliable of an estimate for the guideline calculation purposes. But, again, I think the evidence is undisputed on the intended loss.

10:28AM I then increased the offense level by two more levels for there being more than ten victims pursuant to Section 2B1.1(b)(2)(A)(i). I adopted the findings and analysis on pages 7 and 8 of the Government's sentencing position and the attached declaration of Special Agent Higgins.

10:29AM Based on the evidence presented at trial including the testimony of Mr. Mizrahi, there was at least 35 victims who lost millions of dollars because of Mr. Mizrahi's fraud.

Then I increased the offense level by two more levels for sophisticated means being used pursuant to Section 2B1.1(b)(10)(C). I adopted the findings and analysis on pages 8 through 11 of the Government's sentencing position. Based on the evidence presented at trial, including the testimony of Mr. Mizrahi, the fraudulent scheme is sophisticated means.

10:30AM What I mean by that, Mr. Mizrahi held himself out to investors as a sophisticated money manager, licensed broker, and CPA. He falsely represented to over 40 investors that he employed sophisticated equity and equity option trading strategies and those strategies were risk-free and secure.

10:30AM He falsely represented that the investors were guaranteed monthly returns of 2 to 3 percent. He supported his false representations with a written prospectus that falsely stated the historical rates of return.

He repeatedly showed investors fake E*TRADE account 10:30AM statements with inflated account balances when in reality their money was lost.

He engaged in a transaction with Mr. Yehezkilof to conceal that he lost his and the other investors' money, and he made lulling payments to investors to conceal his fraud and 10:31AM loss of their money.

Then I increased the offense level by two more levels for abuse of trust pursuant to Section 3B1.3. Based on the evidence presented at trial, including the testimony of Mr. Mizrahi, I believe he abused his position of trust. He 10:31AM held himself out as an investment advisor or manager given discretion to invest the victim investors' money. He falsely misrepresented to the victim investors that their money was secure and would receive monthly returns.

He advised the trust -- he abused the trust the 10:31AM victims placed in him when he transferred the victims' funds

Appendix D

United States District Court
Central District of California

UNITED STATES OF AMERICA vs.		**Docket No.**	CR 19-00415-CJC-1
Defendant	MOTTY MIZRAHI	**Social Security No.**	6 2 1 6
akas:	Mizrahi, Mordechai; Mirahi, M.	(Last 4 digits)	

JUDGMENT AND PROBATION/COMMITMENT ORDER

	MONTH	DAY	YEAR
In the presence of the attorney for the government, the defendant appeared in person on this date.	12	18	2023

COUNSEL John Hanusz, Retained
(Name of Counsel)

PLEA [X] **GUILTY,** and the court being satisfied that there is a factual basis for the plea. [ ] **NOLO CONTENDERE** [ ] **NOT GUILTY**

FINDING There being a finding/verdict of **GUILTY,** defendant has been convicted as charged of the offense(s) of:

Wire Fraud in violation of 18 U.S.C. § 1343; Aiding and Abetting in violation of 18 U.S.C. § 2(a) as charged in Counts 1 - 6 of the First Superseding Indictment.

Aggravated Identity Theft in violation of 18 U.S.C. § 1028A(a)(1) as charged in Count 7 of the First Superseding Indictment.

JUDGMENT AND PROB/ COMM ORDER The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that pursuant to the Sentencing Reform Act of 1984, the defendant, MOTTY MIZRAHI, be committed Counts 1 through 7 of the First Superseding Indictment to the custody of the Bureau of Prisons for a term of **ONE HUNDRED AND EIGHT (108) MONTHS**. This term consists of 84 months on each of Counts 1 through 6 of the First Superseding Indictment, all to be served concurrently, and 24 months on Count 7 of the First Superseding Indictment, to be served consecutively to the terms imposed on Counts 1 through 6.

The defendant shall pay to the United States a special assessment of $700, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than $25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

It is ordered that the defendant shall pay restitution pursuant to 18 U.S.C. § 3663A. Pursuant to 18 U.S.C. § 3664(d)(5), a final determination of the victims' losses will be ordered at a deferred restitution hearing within 90 days from the date of sentencing. An amended judgment will be entered after such determination.

If the defendant makes a partial payment, each payee shall receive approximately proportional payment unless another priority order or percentage payment is specified.

The defendant shall be held jointly and severally liable with convicted co-defendant, Sassi Mizrahi (Docket No. 0973 2:19CR00415(A)-2) for the amount of restitution ordered in this judgment. The victims' recovery is limited to the amount of their losses and the defendant's liability for restitution ceases if and when the victims receive full restitution.

Pursuant to 18 U.S.C. § 3612(f)(3)(A), interest on the restitution ordered is waived because the defendant does not have the ability to pay interest. Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

The defendant shall comply with Second Amended General Order No. 20-04.

Pursuant to Guideline §5E1.2(a), all fines are waived as the Court finds that the defendant has established that he is unable to pay and is not likely to become able to pay any fine.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three (3) years. This term consists of three years on each of Counts 1 through 6 and one year on Count 7 of the First Superseding Indictment, all such terms to run concurrently under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation & Pretrial Services Office and Second Amended General Order 20-04, including the conditions of probation and supervised release set forth in Section III of Second Amended General Order 20-04.

2. During the period of community supervision, the defendant shall pay the special assessment and restitution in accordance with this judgment's orders pertaining to such payment.

3. The defendant shall cooperate in the collection of a DNA sample from the defendant.

4. The defendant shall apply all monies received from income tax refunds, lottery winnings, inheritance, judgments, and any other financial gains to the Court-ordered financial obligation.

5. The defendant shall not engage, as whole or partial owner, employee or otherwise, in any business involving loan programs, telemarketing activities, investment programs or any other business involving the solicitation of funds or cold calls to customers without the express approval of the Probation Officer prior to engaging in such employment. Further, the defendant shall provide the Probation Officer with access to any and all business records, client lists, and other records pertaining to the operation of any business owned, in whole or in part, by the defendant, as directed by the Probation Officer.

6. The defendant is barred from soliciting funds for any purpose, working for anyone who is soliciting funds, giving advice regarding securities, and/or working in the securities industry.

7. As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns and a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income, expenses, and liabilities of the defendant.

8. The defendant shall submit the defendant's person, property, house, residence, vehicle, papers, computers, cell phones, other electronic communications or data storage devices or media, email accounts, social media accounts, cloud storage accounts, or other areas under the defendant’s control, to a search conducted by a United States Probation Officer or law enforcement officer. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. Any search pursuant to this condition will be conducted at a reasonable time and in a reasonable manner upon reasonable suspicion that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation.

The drug testing condition mandated by statute is suspended based on the Court's determination that the defendant poses a low risk of future substance abuse.

USA vs. MOTTY MIZRAHI Docket No.: CR 19-00415-CJC-1

The Court recommends that the defendant be housed in a Southern California facility to facilitate visitation with family, friends, and loved ones.

Bond is exonerated.

The Court advises the defendant of his right to appeal.

The Court Orders the defendant remanded forthwith to the custody of the U.S. Marshal. Clerk issued electronic remand order (see attachment).

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

December 18, 2023
Date

U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

December 18, 2023
Filed Date

By Rolls Royce Paschal
Deputy Clerk

USA vs. MOTTY MIZRAHI Docket No.: CR 19-00415-CJC-1

The defendant must comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant must not commit another federal, state, or local crime;
2. The defendant must report to the probation office in the federal judicial district of residence within 72 hours of imposition of a sentence of probation or release from imprisonment, unless otherwise directed by the probation officer;
3. The defendant must report to the probation office as instructed by the court or probation officer;
4. The defendant must not knowingly leave the judicial district without first receiving the permission of the court or probation officer;
5. The defendant must answer truthfully the inquiries of the probation officer, unless legitimately asserting his or her Fifth Amendment right against self-incrimination as to new criminal conduct;
6. The defendant must reside at a location approved by the probation officer and must notify the probation officer at least 10 days before any anticipated change or within 72 hours of an unanticipated change in residence or persons living in defendant's residence;
7. The defendant must permit the probation officer to contact him or her at any time at home or elsewhere and must permit confiscation of any contraband prohibited by law or the terms of supervision and observed in plain view by the probation officer;
8. The defendant must work at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons and must notify the probation officer at least ten days before any change in employment or within 72 hours of an unanticipated change;
9. The defendant must not knowingly associate with any persons engaged in criminal activity and must not knowingly associate with any person convicted of a felony unless granted permission to do so by the probation officer. This condition will not apply to intimate family members, unless the court has completed an individualized review and has determined that the restriction is necessary for protection of the community or rehabilitation;
10. The defendant must refrain from excessive use of alcohol and must not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
11. The defendant must notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12. For felony cases, the defendant must not possess a firearm, ammunition, destructive device, or any other dangerous weapon;
13. The defendant must not act or enter into any agreement with a law enforcement agency to act as an informant or source without the permission of the court;
14. The defendant must follow the instructions of the probation officer to implement the orders of the court, afford adequate deterrence from criminal conduct, protect the public from further crimes of the defendant; and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

☐ The defendant must also comply with the following special conditions (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant must pay interest on a fine or restitution of more than $2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment under 18 U.S.C. § 3612(f)(1). Payments may be subject to penalties for default and delinquency under 18 U.S.C. § 3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed before April 24, 1996. Assessments, restitution, fines, penalties, and costs must be paid by certified check or money order made payable to "Clerk, U.S. District Court." Each certified check or money order must include the case name and number. Payments must be delivered to:

United States District Court, Central District of California
Attn: Fiscal Department
255 East Temple Street, Room 1178
Los Angeles, CA 90012

or such other address as the Court may in future direct.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant must pay the balance as directed by the United States Attorney's Office. 18 U.S.C. § 3613.

The defendant must notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence address until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. § 3612(b)(l)(F).

The defendant must notify the Court (through the Probation Office) and the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. § 3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution under 18 U.S.C. § 3664(k). See also 18 U.S.C. § 3572(d)(3) and for probation 18 U.S.C. § 3563(a)(7).

Payments will be applied in the following order:

1. Special assessments under 18 U.S.C. § 3013;
2. Restitution, in this sequence (under 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid):
   Non-federal victims (individual and corporate),
   Providers of compensation to non-federal victims,
   The United States as victim;
3. Fine;
4. Community restitution, under 18 U.S.C. § 3663(c); and
5. Other penalties and costs.

CONDITIONS OF PROBATION AND SUPERVISED RELEASE PERTAINING TO FINANCIAL SANCTIONS

As directed by the Probation Officer, the defendant must provide to theProbation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant must not apply for any loan or open any line of credit without prior approval of the Probation Officer.

When supervision begins, and at any time thereafter upon request of the Probation Officer, the defendant must produce to the Probation and Pretrial Services Office records of all bank or investments accounts to which the defendant has access, including any business or trust accounts. Thereafter, for the term of supervision, the defendant must notify and receive approval of the Probation Office in advance of opening a new account or modifying or closing an existing one, including adding or deleting signatories; changing the account number or name, address, or other identifying information affiliated with the account; or any other modification. If the Probation Office approves the new account, modification or closing, the defendant must give the Probation Officer all related account records within 10 days of opening, modifying or closing the account. The defendant must not direct or ask anyone else to open or maintain any account on the defendant's behalf.

The defendant must not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of $500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

USA vs. MOTTY MIZRAHI Docket No.: CR 19-00415-CJC-1

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on ______________________ to ______________________

Defendant noted on appeal on ______________________

Defendant released on ______________________

Mandate issued on ______________________

Defendant's appeal determined on ______________________

Defendant delivered on ______________________ to ______________________

at ______________________

the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

By ______________________

Date

Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By ______________________

Filed Date

Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) ______________________ ______________________

Defendant Date

______________________ ______________________

U. S. Probation Officer/Designated Witness Date

UNITED STATES DISTRICT COURT
THE CENTRAL DISTRICT OF CALIFORNIA

TO UNITED STATES MARSHAL:

PURSUANT TO AN ORDER OF COURT, YOU ARE AUTHORIZED AND DIRECTED TO:

Check one box:

☐ RELEASE FROM CUSTODY ☒ TAKE INTO CUSTODY

Check one box:

☒ FORTHWITH
☐ TO PROBATION/PRETRIAL SERVICES ONLY
☐ TO IMMIGRATION AND CUSTOMS ENFORCEMENT
☐ OTHER:

NAME: Motty Mizrahi

CASE NO: CR 19-00415-CJC-1

CHARGES: 18:1343, Wire Fraud; 18:2(a) Aiding and Abetting
18:1028A(a)(1), Aggravated Identity Theft

Check one box:

☐ Defendant Acquitted of Charge(s)
☐ Defendant Restored to Probation Status
☐ Defendant Sentenced to a Period of Incarceration
☐ Defendant Sentenced to a Period of Probation
☐ Defendant's Prior Bond Reinstated
☐ Bond Revoked Pending Trial/Sentencing/other hearing
☐ Supervised Release/Probation Violation
☐ Defendant Sentenced to Time Served
☐ Motion to Dismiss Indictment/Information granted
☒ The Court Orders the defendant remanded forthwith to the custody of the U.S. Marshal.

CLERK, U.S. DISTRICT COURT

Issued on: December 18, 2023

at 11:20 a.m.

BY: /s/ Rolls Royce Paschal
(signature)

Deputy Clerk: Rolls Royce Paschal
(print name)

ORDERED BY THE HONORABLE Cormac J. Carney