

The Honorable John C. Coughenour

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

v.

ROBERTA CASTILLO,
Defendant.

NO. CR16-112 JCC

GOVERNMENT’S SENTENCING
RECOMMENDATION

DATE: July 25, 2017 at 9:00 a.m.

Comes now the United States of America, by and through Annette Hayes, United States Attorney for the Western District of Washington, and Susan M. Roe, Assistant United States Attorney for said District, and files this pleading to assist the Court at sentencing. The government has no objections to the facts contained in the PreSentence Report but differs on the guideline calculation.

On March 27, 2017, Roberta Castillo entered guilty pleas to two counts of an eight count Indictment. She plead guilty to Theft and Embezzlement by a Bank Employee, in violation of Title 18, USC, Section 656, and to Aggravated Identity Fraud, in violation of Title 18, USC, Section 1028A. The Indictment arose from Ms. Castillo’s conduct as a bank employee and branch manager.

1 Within the Plea Agreement, the defendant agreed to restitution in an amount
2 between \$250,000 and \$550,000. See, Plea Agreement, paragraph 6. She waived her
3 right to appeal to the extent allowed by law. See, Plea Agreement, paragraph 14.
4

5 ***Roberta Castillo's Conduct Underlying the Guilty Pleas***

6 *Introduction*

7 Roberta Castillo worked her way up the ranks of Washington Mutual Bank, later
8 JPM Chase, until she was a branch assistant manager and branch manager at two West
9 Seattle branches located in grocery stores. Well-liked by her subordinate tellers,
10 considered knowledgeable about banking systems, and known for her focus on customer
11 service, Ms. Castillo was a fixture in the neighborhood branches.

12 It is difficult to describe just how vulnerable and trusting her victims were.
13 Physically they are aging and are severely compromised. P.S has not lived alone or
14 routinely left his house for the past few years. His sister, A.S.E, is in an assisted living
15 residence in Spokane. M.F., the executor of the victim estate, suffered a debilitating
16 stroke and her family has moved her to Ellenburg. Only H.L.G. is physically able to
17 come to court.

18 P.S., M.F. and H.L.G. all knew the defendant personally. P.S. spoke to agents of
19 meeting Roberta Castillo on her first day of work in the late 1990s at Washington Mutual.
20 He told agents that she was young and nervous and he patted her hand while he reassured
21 her that she would learn the job and be just fine. He visited with her on his frequent trips
22 to the neighborhood bank over the years and, later when he was house-bound, she
23 volunteered to come to his house to "help" him with his financial records. P.S. thought
24 they were friends and he appreciated how she treated him as a special favorite customer
25 at the bank.

26 M. F. told investigators that she worked quite closely with the defendant when her
27 mother was deemed incompetent and M.F. was named her mother's guardian. At the
28 time, Roberta Castillo helped M.F. organize her mother's financial assets which included

1 six trust accounts held in several banks. M.F. knew of Roberta Castillo because Roberta
2 helped her monitor her mother's finances before the guardianship was established – just
3 to insure that no one was taking advantage of an elderly and failing parent. When her
4 mother died, M.F. became the executrix of a sizeable estate with many beneficiaries.
5 M.F. was up to the job until she lost her husband, her brother, and was injured in a
6 serious car accident. At that point, M.F. needed help and the defendant volunteered –
7 visiting M.F. at her home and charging her \$25 an hour to organize the financial matters,
8 including the entire estate. M.F. trusted Roberta Castillo completely.

9 H.L.G. was a truck driver whose wife handled all of their financial matters during
10 their long marriage. H.L.G. carried small amounts of cash that he used to pay his routine
11 expenses and, in his entire life, had one credit card – a gas card – which he only used on
12 his yearly fishing trip to Canada. He was at sea when his wife died but their house was
13 paid off, he had social security and a small pension, and no bills. H.L.G. first met
14 Roberta Castillo when he was trying to learn why he began to get bills and overdue
15 notices.¹ He had no idea that she had stolen from him until federal agents contacted him
16 as part of this investigation. Currently his house has been remortgaged, his IRA drained,
17 and his retirement is financially tenuous.

18 Ms. Castillo appears to have embezzled simply to cover personal expenses and,
19 later, to cover mistakes she made at work. Her two nearly adult children lived with her
20 and she was involved with struggling musicians. She bankrolled them all. Stolen funds
21 were used to pay her bank loans, routine expenses such as manicures and gas, hotel
22 rooms, airplane tickets, a cruise, as well as unexpected bills, i.e., a bail bond when her
23 boyfriend shot her prior boyfriend.² She made significant cash withdrawals and that
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25
26 ¹ Determining Mr. Greer's financial losses are complicated by an apparent nearly simultaneous significant theft by a
27 family member. It is unknown whether Ms. Castillo facilitated the family member in the dealings with Mr. Greer but
Ms. Castillo cannot be blamed for much of his current financial situation.

28 ² Ms. Castillo reports an abusive relationship with her prior, longterm boyfriend as a mitigating factor. That may be
but there is no known embezzling during that relationship. Rather, her embezzling was rampant during the
Government's Sentencing Recommendation - 3
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1 money is, of course, untraceable. There is no evidence of any money saved or stashed.
2 Ms. Castillo may have had help with some of the cash withdrawals – many forged
3 signatures appear to have been made by the same, but as yet unidentified, hand.³

4 While this investigation has discovered three separate sets of victims, only one
5 victim independently realized that she was a fraud victim. She contacted the bank and
6 insisted her funds were missing. It is disturbing that neither of the other two victims
7 realized their money was stolen until police contacted and told them. Police discovered
8 the additional victims only through an intensive review of certain bank internal records
9 but it was impossible to identify and obtain records for all of the defendant's elderly
10 clients.

11 This is significant because it is fair to assume that there are other, unidentified
12 victims of Roberta Castillo. As shown in the attached timeline, (Attachment A), the
13 defendant was stealing and spending thousands of dollars a month. The attachment
14 illustrates two gaps in the known thefts – October 2012 to February 2013 and December
15 2013 to August 2014. It is unlikely that Roberta Castillo's expenses and spending simply
16 stopped during these time periods. Rather it is reasonable to assume she gained access to
17 other accounts during the gaps and that law enforcement has not been able to identify
18 those victims.

19
20 ***Victim – Estate of C.N.***

21 Between February 2012 and September 2013, Ms. Castillo drained \$364,500 from
22 an overlooked CD account of deceased C.N., zeroing out the account. The majority of the
23

24 subsequent relationship and it is this subsequent boyfriend who is in prison. The shooting appears to have been
25 motivated by jealousy over her. Ms. Castillo testified for both the government and the defense at the trial.

26 ³ In one discreet series of transactions, Ms. Castillo involved a bank customer named X. N. who was paid to be the
27 straw owner of a phony business bank account the defendant opened at US Bank in Tacoma, using stolen funds. X.
28 N. denied any knowledge of illegal acts. X.N. has a 1990s fraud conviction and was a cooperating target in a
subsequent insurance fraud investigation. The US Bank teller previously worked under Ms. Castillo's supervision.
He admired her and believed her representations about the X.N. and the new business account. He lost his job over
opening this account.

1 money was taken in one cashier's check of \$326,000 made payable to the deceased and
2 purportedly endorsed by the deceased. This was pursuant to the bank's requirement that
3 the only approved method of closing a CD account is by cashier's check with the account
4 holder's name as both the payee and the remitter.

5 Within a day, Ms. Castillo split the \$326,000 into two accounts at different banks.
6 One cashier's check & a new account were in a variation of A.S.E.'s name and another in
7 a slight variation of the decedent's name. Using bank records, the money was traced as it
8 moved through these accounts and was transferred into cash withdrawals and cashier's
9 checks, some of which are directly traceable to Ms. Castillo. The Estate has been
10 reimbursed by JPM Chase.

11
12 ***Victims – A.S.E. & P.S.***

13 This elderly brother & sister lost over \$140,000 in 37 unauthorized counter cash
14 withdrawals and a few checks between June 2012 and October 2013, ending only when
15 A.S.E. noticed and contacted the bank. We have the signed counter withdrawal slips and
16 check, many of which are not in A.S.E.'s hand. One check for \$5,000 was payable to
17 Roberta Castillo and, when questioned by law enforcement, she acknowledged cashing it
18 but claimed she did so as a favor for P.S. She claimed she dropped by his house with the
19 \$5,000 in cash but he does not remember this and, from his financial history, it is highly
20 unlikely it occurred. Her actions would also be in violation of bank policy. Another
21 withdrawal was taken as cash and a cashier's check made payable to Bank of America
22 with a notation to be applied to Castillo's loan; five other withdrawals were divided
23 between cash and deposits directly into Castillo's boyfriend's JPMC account.

24 Accompanied by a younger relative, A.S.E. registered a complaint about missing
25 money at a Tacoma branch, not at the usual West Seattle branch where Ms. Castillo
26 worked. Within a day, Ms. Castillo called the Tacoma teller who lodged the complaint
27 and said that no internal investigation was necessary because she had cleared the matter.
28 What Roberta Castillo actually did was drain the Estate CD account that day.

1 A.S.E.'s complaint triggered both the bank's ongoing internal review and a Seattle
2 Police Department Elder Abuse investigation.

3 Ms. Castillo did close A.S.E.'s account. The stripped account had a much reduced
4 balance of \$53,000. In closing the account and attempting to placate the customer, Ms.
5 Castillo actually kept the \$53,000 (\$10,000 in cash and a \$43,000 cashier's check) and,
6 several months later, partially repaid A.S.E. with money stolen from the Estate of C.N.

7 Over the next two months, cash was skimmed off and new cashier's checks were
8 issued and run through other customer accounts of Ms. Castillo's until finally, \$500 was
9 deposited into Ms. Castillo's own account. Ms. Castillo used these \$20,000 in stolen
10 funds for personal and family expenses as well as to compensate a customer when she
11 failed to lock in a mortgage interest rate. That is, she transferred stolen funds to buy down
12 the points. The customer assumed the bank was making good on the locked interest rate.

13 In lieu of returning A.S.E.'s own money to her, Ms. Castillo gave her an \$182,000
14 cashier's check purchased with funds stolen from the Estate CD account. The \$182,000
15 cashier's check was Castillo's attempt to cover the more than \$140,000 of losses added to
16 the balance of \$53,000.

17
18 ***Victim – H.L.G.***

19 Ms. Castillo helped H.L.G., an elderly widower, with his banking after his wife's
20 death. She opened a Chase credit card in his name which she used at fast food restaurants,
21 gas stations and nail salons and with which she bought airline tickets and booked hotel
22 rooms for her boyfriend. She appears to have withdrawn a few thousand in cash from his
23 Line of Credit, and, on one day, took \$8,000 in a cash advance from his account. These
24 actions only came to light when agents found documents relating to him and these
25 accounts in the search of Castillo's home. H.L.G. was unaware that his identity and credit
26 was compromised by her. This conduct is the basis of the Aggravated Identity Theft. His
27 losses are substantial but only a small percentage can be proven as stolen by Roberta
28 Castillo.

1 M.F., the executrix of the estate, does not know the other victims and did not
2 authorize money from the C.D. account to be given to them or to Ms. Castillo. The
3 siblings do not know the other victims and did not authorize their funds to be used by Ms.
4 Castillo or for the use of anyone else. The elderly widower, H.L.G., does not know any
5 of the other victims, did not authorize Ms. Castillo to take his money, and did not give
6 Ms. Castillo permission to use his name, social security number or identification to open
7 a credit card, line of credit or bank account in his name.

8
9 *Sentencing Considerations*

10 *Guidelines Calculations*

11 The following guideline references may assist the Court at sentencing. As set
12 forth within the Plea Agreement (*See*, paragraph 11) the parties agrees that, as applied to
13 the count of Theft and Embezzlement by Bank Employee:

- 14 - Ms. Castillo has a base offense level of 7, pursuant to Section 2B1.1;
15 - She will receive a 12 level increase based on the loss amount of more than
16 \$250,000 but less than \$550,000, pursuant to subsection (b)(1)(G);
17 - She will receive a two level increase because the elderly victims were
18 vulnerable, pursuant to Section 3A1.1(b)(1);
19 - She will receive a two level increase because Ms. Castillo abused her position
20 of trust, pursuant to Section 3B1.3;
21 - She will receive a three level reduction for acceptance of responsibility,
22 pursuant to Section 3E1.1 and paragraph 10 of Plea Agreement.

23
24 Not addressed in the Plea Agreement but raised in the PRS are two additional
25 relevant guideline enhancements. The government endorses one of the enhancements but
26 not the other.

27 (1) Section 2B1.1(b)(10) mandates a two level increase for use of sophisticated
28

1 means to commit the crime. The U.S. Probation Officer calls for this enhancement as
2 does the government. Application Note 9(B) in the USSG Commentary addresses the
3 Sophisticated Means Enhancement:

4
5 For purposes of subsection (b)(10)(C), "sophisticated means" means
6 especially complex or especially intricate offense conduct pertaining to the
7 execution or concealment of an offense. For example, conduct such as hiding
8 assets or transactions, or both, through the use of fictitious entities, corporate
shells, or offshore financial accounts also ordinarily indicates sophisticated means.

9
10 "Conduct need not involve highly complex schemes or exhibit exceptional
11 brilliance to justify a sophisticated means enhancement," *United States v. Jennings*, 711
12 F.3d 1144, 1145 (9th Cir.2013). Courts cited the "high level of planning and concealment
13 of a defendant's theft," *United States v. Tanke*, 743 F. 3d 1296 (9th Cir. 2014), and the
14 "complicated and fabricated paper trail [which] made discovery of his fraud difficult."
15 *United States v. Horob*, 735 F.3d 866, 872 (9th Cir. 2013) when affirming application of
the enhancement.

16 Ms. Castillo was highly skilled in both the operation procedures and the electronic
17 records of the bank. She used that knowledge and expertise to conceal her
18 embezzlement, often having her subordinate tellers process the transactions so that her
19 employee number was not electronically visible. She fraudulently vouched to tellers that
20 her elderly clients were in the bank waiting at her desk or sitting in the car, so that the
21 tellers would conduct these atypical transactions without personally viewing the
22 customer.

23 Ms. Castillo laundered the stolen funds through generic branch accounts, cashier's
24 checks, dormant business accounts, and serial cash withdrawals. The bank's fraud
25 prevention office, SPD and FBI spent hours scouring records to track her theft. Her
26 incredibly complicated electronic trail and her success in hiding the identity of the
27 victims are a result of this fraud being committed and hidden in a sophisticated manner.
28

1 (2) Section 2B1.1(b)(2)(A)(iii) requires a two level increase if the offense resulted
2 in substantial financial hardship to one or more victims.

3 It is true that H.L.G. has suffered a terrible financial hardship, however most of
4 that resulted from a relative's actions. For instance, the relative is responsible for both
5 the current mortgage and a large-balance credit card. Since there is insufficient evidence
6 that Roberta Castillo's actions directly caused the substantial financial hardship to
7 H.L.G., the government cannot endorse this enhancement.

8 *Final Guidelines Calculation*

9 The above calculations result in a final offense level of 22 and a criminal history
10 category of I, which yield a presumptive guideline range of 41 to 51 months on the
11 Embezzlement count.

12 As to the count of Aggravated Identity Theft, the parties agree that two year
13 mandatory term of imprisonment shall run consecutively to any term imposed for the
14 Embezzlement.

15 *Restitution*

16 The Estate of C.N. has been fully compensated by JMP Chase. The bank has not
17 requested restitution at this time.

18 JPM Chase calculated P.S. and A.S.E's total losses at \$206,753.41. They have not
19 been reimbursed by the bank.

20 H.L.G.'s losses directly attributable to Roberta Castillo are \$22,108.92. He has
21 not been reimbursed either.

22 US Bank froze \$177,741.29 which should be applied to restitution and distributed
23 to the victims

24 *Consideration of Title 18, USC, Section 3553 Factors*

25 The Court should impose a sentence sufficient, but not greater than necessary, to
26 comply with the four identified purposes of sentencing: just punishment, deterrence,
27 protection of the public, and rehabilitation. A sentencing court then is directed to take
28 into account "the nature and circumstances of the offense and the history and

1 characteristics of the defendant,” as well as “the need for the sentence imposed” to serve
2 the four overarching aims of sentencing. §§3553(a)(1), (2)(A)–(D);. *Pepper v. United*
3 *States*, 562 U. S. 476, 487–489 (2011). *Gall v. United States*, 552 U. S. 38, 50, n. 6 (2007)

4 The factors listed in Title 18, United States Code, Section 3553(a) are: (1) the
5 nature and circumstances of the offense; (2) the history and characteristics of the
6 defendant; (3) the need for the sentence to reflect the seriousness of the offense, to
7 promote respect for the law, and to provide just punishment for the offense; (4) the need
8 for the sentence to afford adequate deterrence to criminal conduct; (5) the need for the
9 sentence to protect the public from further crimes of the defendant; (6) the need to
10 provide the defendant with educational and vocational training, medical care, or other
11 correctional treatment in the most effective manner; (7) the kinds of sentences available;
12 (8) the need to provide restitution to victims; and (9) the need to avoid unwarranted
13 sentence disparity among defendants involved in similar conduct who have similar
14 records.

15 In this case, the nature and circumstances of the offense paint a clear picture of a
16 predatory banker who picked older, trusting and vulnerable victims. Within the bank, she
17 moved money from one account to another to cover her tracks, often laundering stolen
18 funds through serial cashier’s checks, and frequently asking her subordinate tellers to
19 conduct her transactions at their tills. In doing so, she insured that the electronic record
20 of suspicious transactions would point to the different tellers, not to Ms. Castillo. On a
21 few occasions, when a victim noticed a small amount of money missing and contacted
22 the defendant for assistance, she would respond as a responsible bank manager. Each
23 time, Roberta Castillo covered up the theft, reassured the victim that it was a bank error,
24 and that she’d resolve it. Then she continued to steal from those accounts.

25 The defendant has provided the Court with a sad personal history and the
26 government has no additional information to rebut or confirm the story of her childhood.
27 What is clear is that for many years Ms. Castillo had successfully overcome much of her
28 prior trauma. She was a valued employee at Washington Mutual for more than a dozen

1 years – being promoted many times because of her competence and knowledge. She was
2 highly regarded and well-compensated.

3 Roberta Castillo turned to embezzlement after JPM Chase purchased Washington
4 Mutual and her compensation fell sharply. The new bank had a different and demanding
5 salary scale with far lower commissions. Ms. Castillo made up the difference in her
6 reduced compensation by stealing from her JPM Chase customers. While her desire for
7 more money may be understandable, her method of obtaining it is not. Customers should
8 be able to trust that their personal information and life savings are safe in banks,
9 particularly from bank employee theft. A term in prison is needed to reflect the
10 seriousness of the offense, to promote respect for the law, to provide just punishment for
11 the offense and to deter such criminal conduct.

12 The public may not be in danger from further crimes of the defendant now,
13 however, it is concerning that she was able to work as a loan officer at PNC Bank and a
14 mortgage officer at Procura Mortgage and Freedom Mortgage *after* being fired for
15 stealing. She should not be allowed to have access to personal identifying information or
16 financial records while in custody or while on supervision.

17 It is unclear what educational or vocational training, medical care or other
18 correctional treatment she may undergo while within the Bureau of Prisons. She will
19 have a restitution obligation upon release.

20 The conviction on Embezzlement by a Bank Employee mandates a prison term,
21 *USSG § 5C1.1(f)*, consecutive to the mandatory term for Aggravated Identity Theft.

22 23 ***Conclusion and Sentencing Recommendation***

24 By at least 2011 and continuing until she was fired, Roberta Castillo hijacked bank
25 accounts of elderly customers, stealing their money via cash withdrawals and cashier's
26 checks. She opened new accounts in variations of their names, transferred money from
27 one customer to another to hide her role, and used her position as a well-liked manager to
28 have tellers conduct improper transactions at her direction. Ms. Castillo preyed on long-

1 time customers who knew and trusted her. It is reasonable to assume that there may be
2 additional victim customers who have not discovered the losses or who have been made
3 whole by the bank.

4 The government has carefully reviewed the PreSentence Report, including the
5 Personal History as recounted by Ms. Castillo and her mother, and has received
6 additional information and letters of support from the defense. There may be a basis for
7 a variance.

8 The government recommends a term below the applicable guideline range, 30
9 months on Count 7, the Embezzlement, to be followed by the 24 month term for
10 Aggravated Identity Theft, a period of supervised release of five years, \$200 in Special
11 Assessments, restitution, and the terms and conditions as recommended by the U.S.
12 Probation Department.

13 DATED this 12th day of July, 2017.

14
15 Respectfully submitted,

16 ANNETTE HAYES
17 United States Attorney

18
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CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via e-mail and/or telefax.

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