



Case Law Database



Drug offences

Offences

- Distribution/ delivery/ dispatch/ transport

Keywords

- Trade and Distribution Offences



Participation in an organized criminal group

Offences

- Agreement to commit a serious crime (conspiracy)

Degree of Involvement

- Overt act in furtherance of agreement
- Knowledge of aim or activities of the organized criminal group or its intention to commit the crimes in question

Keywords

- Overt act in furtherance of agreement
- conspiracy

United States of America v. Ramos, No. 3:18-CR-01404-WQH (S.D. Cal. Jun 12 2019)



[United States of America](#)



Fact Summary

Mr Vincent Ramos was the founder and CEO of a Canada-based company called Phantom Secure. Phantom Secure was founded by Mr Ramos, Mr Kim August Rodd and another individual in 2008. Phantom Secure sold custom, modified BlackBerry mobile phones. Additionally, Phantom Secure operated an encrypted network that allowed its devices to send and receive encrypted messages. Mr Ramos advertised Phantom Secure's products as impervious to decryption, wiretapping or legal third-party records requests.

According to Phantom Secure's own marketing materials, the company purchased Blackberry handsets which it then modified to remove the hardware and software responsible for all external architecture, including voice communication, microphone, GPS navigation, camera, Internet and messaging services. It then installed an email program using Pretty Good Privacy (PGP) encryption software and the Advanced Encryption Standard (AES). The email program routed its traffic through encrypted servers located in countries and jurisdictions believed by Phantom Secure to be uncooperative with law enforcement, such as Panama and Hong Kong SAR of China. The locations of Phantom Secure's encrypted servers were also disguised through multiple layers of virtual proxy networks (VPNs). Clients of Phantom Secure were provided with custom email addresses for using the email program on Phantom Secure's devices. Phantom Secure devices and services were provided to clients at a cost of approximately USD 2,000–3,000 per six-month subscription.

According to an informant, Phantom Secure's devices were specifically designed, marketed and distributed for use by transnational criminal organisations, specifically those involved in drug trafficking. According to law enforcement sources in Australia, Canada and the United States of America, Phantom Secure devices were used by senior members of numerous transnational criminal organisations to communicate with their criminal partners. These sources further stated that they were unaware of any law enforcement agency that had identified even a single legitimate Phantom Secure user. Phantom Secure devices were

used to facilitate the distribution of wholesale quantities of cocaine, heroin and methamphetamines throughout the world, including the United States of America, Australia, Mexico, Canada, Thailand and Europe.

US authorities received intelligence that some members of the Sinaloa Cartel in Mexico were users of Phantom Secure devices. Another example of a client of Phantom Secure was Mr Owen Hanson, who used six Phantom Secure devices to coordinate the transportation of more than a tonne of cocaine from Mexico into the United States of America and on to Canada and Australia.

Phantom Secure did not sell its devices to the general public. Rather, the company operated on an exclusive referrals basis whereby a prospective client could not purchase a Phantom Secure device if they received a personal reference from an existing client. Phantom Secure not only verified the reference from the sponsoring client, but also conducted its own open-source checks to verify the prospective client's identity. US authorities believed that the purpose of this procedure was to prevent law enforcement from penetrating Phantom Secure's network.

To protect clients' identities, Phantom Secure did not request, track or record their clients' real names or other identifying information, but rather interacted with them using usernames, email addresses, or nicknames.

Phantom Secure routinely deleted and destroyed evidence from devices that it knew had been seized by law enforcement. Indeed, it guaranteed that clients' messages would be remotely deleted if the device was seized by law enforcement or compromised.

After a news article published on 5 March 2014 stated that law enforcement investigations of a gangland murder were frustrated because the suspects used Phantom Secure devices to coordinate the killing, Mr Ramos wrote that 'this is the best verification on what we have been saying all along – proven and effective for now over nine years. It is the highest level of authority confirming our effectiveness. It can't get better than that.'

At the time of Mr Ramos' arrest, one US government estimate 'conservatively' put the number of Phantom Secure devices in use at 7,000. Another estimate filed in the application for Mr Ramos' arrest stated that there were more than 20,000 Phantom Secure devices in use worldwide, including approximately 10,000 in Australia.

In pleading guilty to the charges against him, Mr Ramos admitted that at least 450 kilograms of cocaine were distributed using Phantom Secure devices, though the real amount would have been significantly larger. The US government stated that 'the amount of drugs Phantom Secure aided and abetted in transporting by providing devices and services to criminals worldwide was too high calculate.'

US authorities estimated that Phantom Secure generated tens of millions of dollars in revenue through the provision of its services. It believed that Phantom Secure laundered the proceeds of its device and services sales through several shell companies. Phantom Secure also used Bitcoin and other cryptocurrencies to launder its earnings.

Organisational structure

The organisational structure of the Phantom Secure criminal enterprise included individuals with roles as administrators, distributors and agents. Administrators included Phantom Secure’s corporate executives and front office staff who had physical control of the Phantom Secure network, Phantom Secure’s books and records, and its corporate operations. Administrators could initiate new subscriptions, remove accounts and remotely wipe and reset devices. As the CEO of Phantom Secure, Mr Ramos was its lead administrator. Mr Rodd was also alleged to have served as an administrator of Phantom Secure. Individual A was also said to have held ‘an integral role in the design and maintenance of the security integrity’ of Phantom Security.

Distributors coordinated agents and resellers of Phantom Secure devices and received payments for ongoing subscription fees, which they transferred, minus a personal commission, back to Phantom Secure. They also provided technical support and communicated directly with Phantom Secure administrators. Messrs Nasri, Poquiz and Gamboa were all alleged to have been distributors for Phantom Secure.

Agents physically sourced and engaged with new customers to sell and deliver Phantom Secure devices. They earned a profit on the sale of the handset and provided first-level technical support to their customers.

Arrest and indictment

The case against Messrs Ramos, Rodd, Nasri, Gamboa and Poquiz stemmed from an investigation in the Southern District of California which related to a Phantom Secure client who used Phantom Secure devices to traffic thousands of kilograms of cocaine and other illicit substances around the world.

On 28 February 2018, a warrant for Mr Ramos’ arrest was issued by the United States District Court for the Southern District of California. On 7 March 2018, Mr Ramos was taken into custody in Bellingham, Washington, United States of America.

Pursuant to an indictment filed 18 March 2015, Messrs Ramos, Rodd, Nasri, Gamboa and Poquiz were charged with racketeering conspiracies in violation of 18 U.S.C. § 1962 and conspiracy to distribute controlled substances in violation of 21 U.S.C. § 841 and 846. The indictment also sought the forfeiture of USD 80 million as proceeds of crime, as well as specifically identified assets such as international bank accounts, real estate, cryptocurrency accounts, and gold coins.



Commentary and Significant Features

This case was significant because it was the first time the United States of America had prosecuted and convicted an executive of a company for knowingly providing transnational criminal organizations with encrypted infrastructure to conduct the international importation and distribution of narcotics.

The facts of this case also show how organized criminal groups are adapting to use improved forms of technology to communicate and evade detection and apprehension, as well as the challenges of law enforcement in investigating and prosecuting increasingly sophisticated organized criminal groups.

Timothy O’Connor, Executive Director of the Criminal Investigations Division of the New South Wales Crime Commission, stated “The disruption of the Phantom Secure platform has been one of the most significant blows to organized crime in Australia.”

Sentence Date:

2019-05-28



Cross-Cutting Issues

Liability

... for

- completed offence

... based on

- criminal intention

... as involves

- principal offender(s)
- participant, facilitator, accessory

Offending

Details

- involved an organized criminal group (Article 2(a) CTOC)
- occurred across one (or more) international borders (transnationally)

Involved Countries



United States of America



Australia



Canada



Panama



China

Investigation Procedure

Involved Agencies

- Federal Bureau of Investigation (United States of America)
- Drug Enforcement Administration (United States of America)
- US Customs and Border Protection
- United States Marshals Service
- Washington State Patrol (United States of America)
- Bellingham Police Department (United States of America)
- Blaine Police Department (United States of America)
- Canada Border Services Agency
- Royal Canadian Mounted Police
- Department of Justice (Canada)
- Australian Federal Police
- New South Wales Police (Australia)
- New South Wales Crime Commission (Australia)
- Australian Criminal Intelligence Commission

Confiscation and Seizure

Comments

In early March 2018, more than 250 law enforcement agents in the United States of America, Canada and Australia conducted approximately 25 searches of houses and offices of Phantom Secure associates, including in Los Angeles, Las Vegas, Miami, Australia and Canada, seizing servers, computers, mobile phones, Phantom Secure devices, drugs, weapons and other assets and evidence. The execution of 19 search warrants across four states in Australia led to the seizure of more than 1,000 encrypted mobile devices.

Authorities also seized other property of Phantom Secure, including more than 150 domains and server licenses which were used by Phantom Secure to allow users to send and receive messages. Bank accounts and property were also seized in Los Angeles and Las Vegas.

On 28 May 2019, the United States District Court for the Southern District of California ordered that Mr Ramos forfeit USD 80 million as proceeds of crime, as well as specifically identified assets such as international bank accounts, real estate, a Lamborghini, cryptocurrency accounts, and gold coins. Mr Ramos also agreed to forfeit the 150 domains and server licenses earlier seized by authorities.

Special investigative techniques

- Special investigative techniques
- Undercover operation(s)/ Assumed identities/ Infiltration

Comments

The investigation into Mr Ramos and the Phantom Secure criminal enterprise involved the cooperation of law enforcement agencies in the United States of America, Canada, Australia, Panama, Hong Kong and Thailand.

Members of the Royal Canadian Mounted Police (RCMP) successfully purchased Phantom Secure devices by posing as drug traffickers. During the vetting process, an undercover agent asked a Phantom Secure representative if it was safe to use the devices to send messages explicitly discussing drug trafficking and the representative assured the agent that this was 'totally fine'. Furthermore, when, as part of the RCMP's undercover investigation, an RCMP agent asked Phantom Secure to wipe an associate's device because the associate had been arrested in connection with drug offences, a Phantom Secure employee complied with the request and assured the agent that police would not be able to access the data formerly on the device.

Undercover US agents posing as high-ranking members of a transnational drug trafficking organisation also met with Mr Ramos in Las Vegas between 8 and 9 February 2017. They stated that they were seeking secure communications and data deletion services to facilitate the expansion of their drug trafficking activities in South America and Europe. During this recorded meeting, Mr Ramos made admissions that Phantom Secure was built specifically for the purpose of facilitating drug trafficking.

In early March 2018, more than 250 law enforcement agents in the United States of America, Canada and Australia conducted approximately 25 searches of houses and offices of Phantom Secure associates, including in Los Angeles, Las Vegas, Miami, Australia and Canada, seizing servers, computers, mobile phones, Phantom Secure devices, drugs, weapons and other assets and evidence. The execution of 19 search warrants across four states in Australia led to the seizure of more than 1,000 encrypted mobile devices.

International Cooperation

Involved Countries

 Australia

 Canada

 Panama

 Thailand

Measures

- International law enforcement cooperation (including INTERPOL)

Outline

The investigation into Mr Ramos and the Phantom Secure criminal enterprise involved the cooperation of law enforcement agencies in the United States of America, Canada, Australia, Panama, Hong Kong and Thailand.

Australia’s involvement in the investigation into Phantom Secure began in early 2017 following an exchange of intelligence with the US Federal Bureau of Investigation and the Royal Canadian Mounted Police.



Procedural Information

Legal System:

Common Law

Latest Court Ruling:

Court of 1st Instance

Type of Proceeding:

Criminal

Proceeding #1:

Stage:

first trial

Official Case Reference:

United States of America v. Ramos, No. 3:18-CR-01404-WQH (S.D. Cal. Jun 12 2019)

Court

Court Title

United States District Court for the Southern District of California

Location

Province:

California

- Criminal

Description

Pursuant to a plea agreement filed 2 October 2018, Mr Ramos pleaded guilty to the charge of a racketeering conspiracy in violation of 18 U.S.C. § 1962(d) and the US agreed to dismiss the charge of conspiracy to distribute narcotics under 21 U.S.C. § 846. On 28 May 2019 the United States District Court for the Southern District of California sentenced Mr Ramos to 9 years’ imprisonment.



Defendants / Respondents in the first instance



Defendant: Vincent Ramos

Gender: Male

Nationality: Canadian

Mr Ramos was the founder and CEO of Phantom Secure and exercised decision-making authority over other administrators, distributors and agents of Phantom Secure. Within Phantom Secure he was also known as ‘CEO’ and ‘Business’.

Mr Ramos was born on 16 November 1977 in Winnipeg, Canada. His father was a janitor and his mother was a nurse. When he was four years old, his family moved to Vancouver, Canada, where he lived until his arrest in the United States.

Mr Ramos studied business at Kwantlen College. He then sold products for Amway before working for Rogers, a Canadian telecommunications company, between 2001 and 2005. In 2006, he started his own business.

Mr Ramos had one sister and was married. He had two daughters and one son with his wife, aged 9, 8 and 5 at the time of sentencing. He also had another son, aged 18 at the time of sentencing, from a previous marriage. He was the coach of his younger son’s flag football team.

Mr Ramos was charged with a racketeering conspiracy to conduct enterprise affairs in violation of 18 U.S.C. § 1962(d) and conspiracy to aid and abet the distribution of cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846. Pursuant to a plea agreement filed 2 October 2018, Mr Ramos pleaded guilty to the charge of a racketeering conspiracy to conduct enterprise affairs and the US agreed to dismiss the charge of conspiracy to distribute narcotics. On 28 May 2019 the United States District Court for the Southern District of California sentenced Mr Ramos to 9 years’ imprisonment. At the time of sentencing, Mr Ramos had no prior criminal record.



Defendant: Kim Augustus Rodd

Gender: Male

Nationality: Australian / Thai

Mr Kim Augustus Rodd, also known as ‘Visith Vongthai’, ‘Snowstar’ and ‘Global’ was alleged by US authorities to be a principal at Phantom Secure and was responsible for the distribution of Phantom Secure devices in Australian in Southeast Asia. He was a dual citizen of

Australia and Thailand and was a resident of Phuket, Thailand.

He was indicted along with Mr Ramos and charged with a racketeering conspiracy to conduct enterprise affairs in violation of 18 U.S.C. § 1962(d) and conspiracy to aid and abet the distribution of cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846. As at 28 May 2019 he had not been apprehended by authorities and was described by the US Department of Justice as an international fugitive.



Defendant: Younes Nasri

Gender: Male

Nationality: Canadian

Mr Younes Nasri, also known as ‘Maestro’ and ‘Jesse’ was alleged by US authorities to be a significant worldwide distributor of Phantom Secure devices. He was a citizen of Canada but had been residing in Dubai, United Arab Emirates.

He was indicted along with Mr Ramos and charged with a racketeering conspiracy to conduct enterprise affairs in violation of 18 U.S.C. § 1962(d) and conspiracy to aid and abet the distribution of cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846. As at 28 May 2019 he had not been apprehended by authorities and was described by the US Department of Justice as an international fugitive.



Defendant: Michael Gamboa

Gender: Male

Nationality: Canadian

Mr Michael Gamboa, also known as ‘Chino’ was alleged by US authorities to have distributed Phantom Secure Devices in Southern California. He was a Canadian citizen and had been residing in Los Angeles, California.

He was indicted along with Mr Ramos and charged with a racketeering conspiracy to conduct enterprise affairs in violation of 18 U.S.C. § 1962(d) and conspiracy to aid and abet the distribution of cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846. As at 28 May 2019 he had not been apprehended by authorities and was described by the US Department of Justice as an international fugitive.



Defendant: Christopher Poquiz

Gender: Male

Nationality: Canadian

Mr Christophe Poquiz, also known as ‘Cad’ or “caddy’ was alleged by US authorities to have distributed Phantom Secure Devices in Southern California. He was a Canadian citizen and had been residing in Los Angeles, California.

He was indicted along with Mr Ramos and charged with a racketeering conspiracy to conduct enterprise affairs in violation of 18 U.S.C. § 1962(d) and conspiracy to aid and abet the distribution of cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846. As at 28 May 2019 he had not been apprehended by authorities and was described by the US Department of Justice as an international fugitive.



Charges / Claims / Decisions



Defendant: Vincent Ramos

Legislation / Statute / Code:

18 U.S.C. § 1962(d)

Charge details:

Racketeering conspiracy to conduct enterprise affairs

Verdict: Guilty

Legislation / Statute / Code:

21 U.S.C. §§ 841(a)(1) and 846

Charge details:

Conspiracy to aid and abet the distribution of a controlled substance

Verdict: Withdrawn

Term of Imprisonment:

9 years

The defendant was sentenced to a term of 9 years’ imprisonment. The defendant was also ordered to be on supervised release for a term of three years following his release from imprisonment.

Fine / Payment to State:

100 USD

Assessment



Defendant: Kim Augustus Rodd

Legislation / Statute / Code:

18 U.S.C. § 1962(d)

Charge details:

Racketeering conspiracy to conduct enterprise affairs

Legislation / Statute / Code:

21 U.S.C. §§ 841(a)(1) and 846

Charge details:

Conspiracy to aid and abet the distribution of a controlled substance



Defendant: Younes Nasri

Legislation / Statute / Code:

18 U.S.C. § 1962(d)

Charge details:

Racketeering conspiracy to conduct enterprise affairs

Legislation / Statute / Code:

21 U.S.C. §§ 841(a)(1) and 846

Charge details:

Conspiracy to aid and abet the distribution of a controlled substance



Defendant: Michael Gamboa

Legislation / Statute / Code:

18 U.S.C. § 1962(d)

Charge details:

Racketeering conspiracy to conduct enterprise affairs

Legislation / Statute / Code:

21 U.S.C. §§ 841(a)(1) and 846

Charge details:

Conspiracy to aid and abet the distribution of a controlled substance



Defendant: Christopher Poquiz

Legislation / Statute / Code:

18 U.S.C. § 1962(d)

Charge details:

Racketeering conspiracy to conduct enterprise affairs

Legislation / Statute / Code:

21 U.S.C. §§ 841(a)(1) and 846

Charge details:

Conspiracy to aid and abet the distribution of a controlled substance



Court

United States District Court for the Southern District of California



Sources / Citations

United States of America v. Ramos, No. 3:18-CR-01404-WQH (S.D. Cal. Jun 12 2019)

United States Attorney's Office, Southern District of California, 'Chief Executive of Communications Company Sentenced to Prison for Providing Encryption Services and Devices to Criminal Organizations' (28 May 2019) *United States Department of Justice*
<<https://www.justice.gov/usao-sdca/pr/chief-executive-communications-company-sentenced-prison-providing-encryption-services>>



Attachments

[USA_v_Ramos_et_al_Judgment.pdf](#)

[USA_v_Ramos_Plea_Agreement.pdf](#)

[USA_v_Ramos_et_al_Indictment.pdf](#)

[USA_v_Ramos_Arrest_Warrant.pdf](#)

United Nations Office on Drugs and Crime

