





Case Law Database



Acts against the Confidentiality, **Integrity and Availability of Computer, Data and Systems**

- Illegal access to a computer system
- Production/ distribution/ possession of computer misuse tools



Drug offences

Offences

 Offering/ offering for sale/ sale/ brokerage

Keywords

Trade and Distribution Offences



Money laundering

Offences

- Conversion/transfer of proceeds of crime
- Concealment/disguise of nature/ source/location/... of proceeds of crime



Participation in an organized criminal group

Offences

- Agreement to commit a serious crime (conspiracy)
- Participation in criminal activities of organized criminal group
- Organizing, directing, aiding, abetting, facilitating or counselling the commission of a crime involving an organized criminal group

United States of America v. Alexandre Cazes aka "ALPHA02" aka "ADMIN"



United States of America

Fact Summary

In or around July 2014, ALEXANDRE CAZES, aka "ALPHA02," aka "ADMIN," with other persons, known and unknown to the. Grand Jury, created AlphaBay (also referred to as the "AlphaBay Market"), a dark-web marketplace designed to enable users to buy and sell illegal goods, including controlled substances, stolen and fraudulent identification documents and access devices, counterfeit goods, malware and other computer hacking tools, firearms, and toxic chemicals. The site also enabled users to purchase and sell illegal services, including "tumbling" and "mixing" services, which are forms of money laundering used for digital currencies.

From its official launch in December 2014 AlphaBay was used by thousands of vendors to distribute controlled substances and other illegal goods and services to buyers throughout the world, and to launder hundreds of millions of dollars deriving from these illegal transactions. AlphaBay also provided a private, internal messaging service through which staff, vendors, and buyers could communicate, as well as an associated web forum called the "AlphaBay Market Forum." On 1 June 2017, an arrest warrant would be issued for Alexandre CAZES that would be satisfied approximately one month later on 5 July 2017. CAZES was arrested during a raid on his home in Bangkok, Thailand and was held by the Royal Thai Police for approximately seven days before apparently committing suicide while in custody on 12 July 2017. On 19 July 2017 U.S. Attorney's Office of the Eastern District of California filed a civil forfeiture complaint against CAZES and his wife.

Commentary and Significant Features

The case of United States of America v. Alexandre Cazes aka "Alpha02" aka "Admin", while not referencing the United Nations Conventional against Transnational Organized Crime by name, does possess a number of elements included in the Convention while displaying the impact that technology and the internet specifically has had and will have going forward in the field of organized crime.

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
- criminal association
- organizing/directing commission of (serious) crime
- Aiding/ abetting/ facilitating/ counselling commission of (serious) crime

This case serves as a prime example of how transnational organized crime will present itself going forward and emphasis that will be placed on law enforcement cooperation on a global scale. Major players will now be able to substitute physical moment across borders for virtual ones, while still displaying characteristics of the type of groups and crimes described in UNTOC. Whether in the actual charges, investigation or in the details of this case, nearly every Article and Protocol is either definitively represented or potentially could be. This shows that while the appearance of organized criminal groups and potential scale of operations may be changing, but crimes and motivations are remaining the same.

Now, men like Alexandre Cazes can run criminal enterprises from behind a keyboard in Bangkok while facilitating the movements of illicit goods and services from one corner of the globe to the other. And these transactions can range from purchases of illegal drugs for personal use for example, to theoretically helping bolster the armament of terrorist organizations.

The global nature of this type of crime requires a level of cooperation that is both extremely well organized and extremely timely amongst law enforcement agencies. This case in particular required a cohesive effort amongst at least 11 agencies from six different countries.

- This is the model of assistance that will be necessary going forward as the historic notion of origin and destination countries for goods and services will continue to be diminished as organized crime will continue to evolve to mirror modern commerce in the internet age. This presents a dangerous expansion of the abilities and ease of access to the sale and purchase of illicit goods and services by both vendors and consumers, while facilitators reap the benefits of connecting the two, at times with all three residing on different continents.



Cross-Cutting Issues

Liability

- ... for
- completed offence
- ... based on
- criminal intention
- ... as involves
- organiser/director

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



Investigation Procedure

Involved Agencies

Federal Bureau of Investigation ("FBI")

- Drug Enforcement Administration (DEA)
- Department of Justice (DOJ)
- International Revenue Service (IRS)
- · Royal Thai Police
- Dutch National Police
- · Lithuanian Criminal Police Bureau (LCPB)
- Royal Canadian Mounted Police (RCMP)
- United Kingdom's National Crime Agency
- Europol
- French National Police

Confiscation and Seizure

Seized Property

Real property (x6) and motor vehicles (x4)

Comments

Seized money: Approximately USD 11.3 millions in digital currencies, cash holdings.

Special investigative techniques

• Undercover operation(s)/ Assumed identities/ Infiltration

International Cooperation

Involved Countries

- United States of America
- Thailand
- Netherlands (Kingdom of the)
- United Kingdom of Great Britain and Northern Ireland
- France
- Lithuania
- Canada

Measures

- International cooperation for confiscation/asset recovery
- International law enforcement cooperation (including INTERPOL)
- Joint Investigation

Outline

A strategy was developed by the FBI, DEA, the Dutch Police and Europol to magnify the disruptive impact of the joint action to take out AlphaBay and Hansa. This involved taking covert control of Hansa under Dutch judicial authority a month ago, which allowed Dutch police to monitor the activity of users without their knowledge, and then shutting down AlphaBay during the same period. It meant the Dutch police could identify and disrupt the regular criminal activity on Hansa but then also sweep up all those new users displaced from AlphaBay who were looking for a new trading platform. In fact they flocked to Hansa in their droves, with an eightfold increase in the number of new members of Hansa recorded immediately following the shutdown of AlphaBay. As a law enforcement strategy, leveraging the combined operational and technical strengths of multiple agencies in the US and Europe, it has

been an extraordinary success and a stark illustration of the collective power the global law enforcement community can bring to disrupt major criminal activity.

In early July 2017, Europol hosted a command post staffed with representatives from the US FBI, DEA and Department of Justice, working alongside specialist staff from EC3 (European Cybercrime Centre). This command post was the central hub for information exchange during the AlphaBay operation. Europol's secure communication channels were used to exchange information between and receive data contributions from partners. Europol continues to support the FBI, DEA, the Dutch National Police and other partners on the forensic work that needs to be performed on huge amounts of seized material.

Electronic Evidence

• Electronic Evidence/Digital Evidence

Procedural Information

Legal System:

Common Law

Latest Court Ruling:

Court of 1st Instance

Type of Proceeding:

Criminal

Accused were tried:

separately (parallel trials)

Proceeding #1:

Official Case Reference:

1: 17 CR - 00144 LJ0 SK0

Court

Court Title

United States District Court for the Eastern District of California

Criminal

Description

On 01 June 2017 the United States District Court for the Eastern District of California filed an indictment against Alexandre CAZES for his role as an organizer and founder of the dark-web market place, AlphaBay. The charges featured in the indictment include allegations of racketeering, money laundering, counterfeiting, drug trafficking, cybercrimes, etc.

If convicted of these counts assets associated with these charges would be subject to forfeiture, however prior to the conclusion of proceedings Alexandre CAZES apparently took his own life while in custody of Thai authorities on 12 July 2017.

Proceeding #2:

Official Case Reference:

1:17-at-00557

Court

Court Title

United States District Court for the Eastern District of California

Criminal

Description

A verified complaint for forfeiture *in rem* (in-rem jurisdiction refers to the power of a court over an item of real or personal property[Note]) was filed on 19 July 2017 in the United States District Court for the Eastern District of California.

The complaint seeks the forfeiture of upwards of \$20m worth of assets including, four motor vehicles, six properties, and over a dozen bank and cryptocurrency accounts associated with Thailand, Antigua and Barbuda, Liechtenstein, Switzerland and Cyprus in the name of CAZES, his wife, AlphaBay and numerous companies opened and utilized by CAZES.

[Note on definition]Cornell Law – source of in rem definition

https://www.law.cornell.edu/wex/in_rem



Defendants / Respondents in the first instance



Defendant: Alexandre Cazes

Gender: Male

Nationality: Canadian

Age: 25

Besides the Canadian citizenship, Alexandre Cazes also has nationality of Antigua and Barbuda and at the time of arrest, he was in process of obtaining citizenship in the Republic of Cyprus.

Legal Reasoning:

The linkage between Alexandre CAZES and the AlphaBay enterprise was established through the discovery of numerous careless mistakes by the defendant.

Investigators discovered that CAZES personal e-mail, Pimp_Alex_91@hotmail.com was included in the welcome header of e-mails from the site's initial launch in December 2014. Additionally, this e-mail was present in the directions for the password reset feature available to users. This e-mail was then traced to CAZES and through a series of other linkages (LinkedIn profile, PayPal accounts, message board posts, etc.) it was established that CAZES was the founder of AlphaBay.

With this connection confirmed, it was then possible to tie CAZES to the activities of AlphaBay, which were primarily established through the use undercover operations involving the purchasing of controlled substances, fake identification documents and other illicit goods.

During the raid in Bangkok, Thailand on 5 July 2017 the relationship between CAZES, AlphaBay and the charges presented in the court filings were solidified when law enforcement officers discovered CAZES personal computer. This computer contained administrative information for the AlphaBay site, passwords, encryption keys and addresses for digital currency wallets associated with AlphaBay and CAZES as well as an Excel document titled "TOTAL NET WORTH," in which CAZES detailed his assets, matching those calculated through documents previously obtained by authorities.



Charges / Claims / Decisions



Defendant: Alexandre Cazes

Legislation / Statute / Code:

18 U.S.C. § 1962(d)

1962(d) - (a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer. (b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

- (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.
- (d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

(https://www.unodc.org/cld/en/legislation/usa/usc_title_18_-_crimes_and_criminal_procedure/part_i/1962_-_1963/18_usc_1962_-_1963.html)

Charge details:

Conspiracy to Engage in a Racketeer Influenced Corrupt Organization

Verdict: Other

Legislation / Statute / Code:

21 U.S.C §§ 846 and 841(a)(1), (b)(1)(A), (b)(1)(C), 841(h), and 843(b)

21 U.S.C. §§:

846 – Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec846.html).

841(a)(1) - (a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

841(b)(1)(A) - (b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

- (1)(A) In the case of a violation of subsection (a) of this section involving—
- (i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;
- (ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—
- (I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
- (II) cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- (IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);
- (iii) 280 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;
- (iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);
- (v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);
- (vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- [1- (2-phenylethyl) -4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
- (vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants regardless of weight; or

(viii) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$10,000,000 if the defendant is an individual or \$50,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$20,000,000 if the defendant is an individual or \$75,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section 849, 859, 860, or 861 of this title after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. Notwithstanding section 3583 of title 18, any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

841(b)(1)(C) – In the case of a controlled substance in schedule I or II, gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000), or 1 gram of flunitrazepam, except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$1,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such

a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

841(h) – Offenses involving dispensing of controlled substances by means of the Internet

(1) In general

It shall be unlawful for any person to knowingly or intentionally—

- (A) deliver, distribute, or dispense a controlled substance by means of the Internet, except as authorized by this subchapter; or
- (B) aid or abet (as such terms are used in section 2 of title 18) any activity described in subparagraph (A) that is not authorized by this subchapter.

(2) Examples

Examples of activities that violate paragraph (1) include, but are not limited to, knowingly or intentionally—

- (A) delivering, distributing, or dispensing a controlled substance by means of the Internet by an online pharmacy that is not validly registered with a modification authorizing such activity as required by section 823(f) of this title (unless exempt from such registration);
- (B) writing a prescription for a controlled substance for the purpose of delivery, distribution, or dispensation by means of the Internet in violation of section 829(e) of the title;
- (C) serving as an agent, intermediary, or other entity that causes the Internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance in a manner not authorized by sections 2 823(f) or 829(e) of this title;
- (D) offering to fill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire; and
- (E) making a material false, fictitious, or fraudulent statement or representation in a notification or declaration under subsection (d) or (e), respectively, of section 831 of this title.
- (3) Inapplicability
- (A) This subsection does not apply to—
- (i) the delivery, distribution, or dispensation of controlled substances by nonpractitioners to the extent authorized by their registration under this subchapter;
- (ii) the placement on the Internet of material that merely advocates the use of a controlled substance or includes pricing information without attempting to propose or facilitate an actual transaction involving a controlled substance; or

- (iii) except as provided in subparagraph (B), any activity that is limited to
- (I) the provision of a telecommunications service, or of an Internet access service or Internet information location tool (as those terms are defined in section 231 of title 47); or
- (II) the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or material made by another person in a manner consistent with section 230(c) of title 47 shall not constitute such selection or alteration of the content of the communication.
- (B) The exceptions under subclauses (I) and (II) of subparagraph (A)(iii) shall not apply to a person acting in concert with a person who violates paragraph (1).
- (4) Knowing or intentional violation

Any person who knowingly or intentionally violates this subsection shall be sentenced in accordance with subsection (b) (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

843(b) - Communication facility

It shall be unlawful for any person knowingly or intentionally to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting a felony under any provision of this subchapter or subchapter II of this chapter. Each separate use of a communication facility shall be a separate offense under this subsection. For purposes of this subsection, the term "communication facility" means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

Charge details:

Narcotics Conspiracy

Verdict: Other

Legislation / Statute / Code:

21 U.S.C. §§ 841(a)(1), (b)(1)(C), & 846, and 18 U.S.C. § 2

21 U.S.C. §§:

841(a)(1) - (a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

841(b)(1)(C) – In the case of a controlled substance in schedule I or II, gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000), or 1 gram of flunitrazepam, except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of

such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$1,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

846 – Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec846.htm).

18 U.S.C. §:

- 2 Principals
- (a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.
- (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

(https://www.unodc.org/cld/legislation/usa/usc_title_18_-
https://www.unodc.org/cld/legislation/usa/usc_title_18_-
https://www.unodc.org/cld/legislation/usa/usc_title_18_-

Charge details:

Distribution of a Controlled Substance, Attempt, and Aiding and Abetting (5 Counts)

Verdict: Other

Legislation / Statute / Code:

21 U.S.C § 841(a)(1), (b)(1)(A), & 846, and 18 U.S.C. § 2

21 U.S.C. §§:

841(a)(1) - (a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to

manufacture, distribute, or dispense, a controlled substance (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

841(b)(1)(A) - (b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

- (1)(A) In the case of a violation of subsection (a) of this section involving—
- (i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;
- (ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—
- (I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
- (II) cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- (IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);
- (iii) 280 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;
- (iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);
- (v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);
- (vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- [1- (2-phenylethyl) -4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
- (vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants regardless of weight; or
- (viii) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers:

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$10,000,000 if the defendant is an individual or \$50,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$20,000,000 if the defendant is an individual or \$75,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section 849, 859, 860, or 861 of this title after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. Notwithstanding section 3583 of title 18, any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during term of imprisonment imposed (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec841.htm).

846 – Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/html/USCODE-2011-title21-chap13-subchapl-partD-sec846.htm).

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- (a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.
- (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

(https://www.unodc.org/cld/legislation/usa/usc_title_18_crimes_and_criminal_procedure/part_i/2_- 3/18_usc_2_3.html?lng=en).

Charge details:

Distribution of a Controlled Substance, Attempt, and Aiding and Abetting

Verdict: Other

Legislation / Statute / Code:

18 U.S.C § 1028(f)

18 U.S.C §:

1028(f) – Attempt and Conspiracy.-Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy (https://www.unodc.org/cld/legislation/usa/usc_title_18_-

<u>__crimes_and_criminal_procedure/part_i/sections_1028_1028a/sections_1028_1028a.htr</u> <u>__lng=en</u>).

Charge details:

Conspiracy to Commit Identity Theft and Fraud

Verdict: Other

Legislation / Statute / Code:

18 U.S.C. § 1028(a)(2), (b)(1)(A)(ii), & (f), and 18 U.S.C. § 2

18 U.S.C. §:

1028(a)(2) – Fraud and related activity in connection with identification documents, authentication features, and information

- (a) Whoever, in a circumstance described in subsection (c) of this section
- (2) knowingly transfers an identification document, authentication feature, or a false identification document knowing that such document or feature was stolen or produced without lawful authority (https://www.unodc.org/cld/legislation/usa/usc_title_18_-

<u>crimes and criminal procedure/part_i/sections_1028_1028a/sections_1028_1028a.htr</u> <u>lng=en</u>).

1028(b)(1)(A)(ii) – The punishment for an offense under subsection (a) of this section is-

- (1) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 15 years, or both, if the offense is-
- (A) the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be-
- (i) an identification document or authentication feature issued by or under the authority of the United States; or
- (ii) a birth certificate, or a driver's license or personal identification card

 (https://www.unodc.org/cld/legislation/usa/usc_title_18___crimes_and_criminal_procedure/part_i/sections_1028_1028a/sections_1028_1028a.htm

<u>Ing=en</u>).

1028(f) – Attempt and Conspiracy.-Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy (https://www.unodc.org/cld/legislation/usa/usc_title_18-

<u>__crimes_and_criminal_procedure/part_i/sections_1028_1028a/sections_1028_1028a.htr</u> <u>__lng=en</u>).

18 U.S.C. §:

2 - Principals

- (a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.
- (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

(https://www.unodc.org/cld/legislation/usa/usc_title_18_-_crimes_and_criminal_procedure/part_i/2_- 3/18_usc_2_3.html?lng=en)

Charge details:

Unlawful Transfer of a False Identification Document, Attempt, and Aiding and Abetting (4 Counts)

Verdict: Other

Legislation / Statute / Code: 18 U.S.C. § 1029(b)(2)

18 U.S.C. §:

1029(b)(2) - Fraud and related activity in connection with access devices

(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties

engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both (https://www.unodc.org/cld/legislation/usa/usc_title_18 - crimes_and_criminal_procedure/part_i/section_1029/section_1029.html?

Charge details:

<u>Ing=en</u>).

Conspiracy to Commit Access Device Fraud

Verdict: Other

Legislation / Statute / Code:

18 U.S.C. §:

1029(a)(4) - Fraud and related activity in connection with access devices

- (a) Whoever-
- (4) knowingly, and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment (https://www.unodc.org/cld/legislation/usa/usc_title_18_-crimes_and_criminal_procedure/part_i/section_1029/section_1029.html?

1029(b)(1) – Whoever attempts to commit an offense under subsection
(a) of this section shall be subject to the same penalties as those prescribed for the offense attempted

(https://www.unodc.org/cld/legislation/usa/usc_title_18__crimes_and_criminal_procedure/part_i/section_1029/section_1029.html?

lng=en).

1029(c)(1)(A)(ii) - Penalties.-

- (1) Generally.-The punishment for an offense under subsection (a) of this section is-
- (A) in the case of an offense that does not occur after a conviction for another offense under this section-
- (i) if the offense is under paragraph (1), (2), (3), (6), (7), or (10) of subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and
- (ii) if the offense is under paragraph (4), (5), (8), or (9) of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both (https://www.unodc.org/cld/legislation/usa/usc_title_18_-crimes_and_criminal_procedure/part_i/section_1029/section_1029.html?
- 2 Principals
- (a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.
- (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

(https://www.unodc.org/cld/legislation/usa/usc_title_18 - crimes_and_criminal_procedure/part_i/2 - 3/18_usc_2_3.html?lng=en).

Charge details:

Trafficking in Device Making Equipment, Attempt, and Aiding and Abetting

Legislation / Statute / Code:

18 U.S.C. §:

1956(h) – Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title18-partl-chap95-sec1956.htm).

Charge details:

Money Laundering Conspiracy

Verdict: Other

Legislation / Statute / Code:

18 U.S.C. § 982(a)(1), 982(a)(2)(B), 1028(b), 1029(c)(1)(C), 1963(a)(1), (a)(2), (a)(3), and 21 U.S.C. § 853(a)

18 U.S.C. §:

982(a)(1) - Criminal forfeiture

(a)(1) The court, in imposing sentence on a person convicted of an offense in violation of section 1956, 1957, or 1960 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title18-partl-chap46.htm).

982(a)(2)(B) -

- (2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—
- (A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, or
- (B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation (https://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/html/USCODE-2011-title18-partl-chap46.htm).

- 1028(b) (b) The punishment for an offense under subsection (a) of this section is-
- (1) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 15 years, or both, if the offense is-
- (A) the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be-
- (i) an identification document or authentication feature issued by or under the authority of the United States; or
- (ii) a birth certificate, or a driver's license or personal identification card (https://www.unodc.org/cld/legislation/usa/usc_title_18_-

<u>__crimes_and_criminal_procedure/part_i/sections_1028_1028a/sections_1028_1028a.htr</u> <u>__lng=en</u>).

1029(c)(1)(C) - (c) Penalties.-

- (1) Generally.-The punishment for an offense under subsection (a) of this section is-
- (A) in the case of an offense that does not occur after a conviction for another offense under this section-
- (i) if the offense is under paragraph (1), (2), (3), (6), (7), or (10) of

- subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and
- (ii) if the offense is under paragraph (4), (5), (8), or (9) of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both;
- (B) in the case of an offense that occurs after a conviction for another offense under this section, a fine under this title or imprisonment for not more than 20 years, or both; and
- (C) in either case, forfeiture to the United States of any personal property used or intended to be used to commit the offense (https://www.unodc.org/cld/legislation/usa/usc_title_18_-crimes_and_criminal_procedure/part_i/section_1029/section_1029.html?

1963(a)(1) - Criminal penalties

(a) Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both, and shall forfeit to the United States, irrespective of any provision of State law— (1) any interest the person has acquired or maintained in violation of section (https://www.unodc.org/cld/legislation/usa/usc_title_18 - crimes_and_criminal_procedure/part_i/1962 - 1963/18_usc_1962 - 1963.html?lng=en).

1963(a)(2) – (a) Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both, and shall forfeit to the United States, irrespective of any provision of State law—

- (2) any— (A) interest in;
- (B) security of;
- (C) claim against; or
- (D) property or contractual right of any kind affording a source of influence over;

any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962 (https://www.unodc.org/cld/legislation/usa/usc_title_18 -

<u>_crimes_and_criminal_procedure/part_i/1962_-_1963/18_usc_1962_-_1963.html?lng=en</u>).

1963(a)(3) – (a) Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both, and shall forfeit to the United States, irrespective of any provision of State law—

(3) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

The court, in imposing sentence on such person shall order, in addition to any other sentence imposed pursuant to this section, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this section, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds

(https://www.unodc.org/cld/legislation/usa/usc_title_18_-_crimes_and_criminal_procedure/part_i/1962_-_1963/18_usc_1962_-_1963.html?lng=en).

21 U.S.C. §:

853(a) - Criminal forfeitures

(a) Property subject to criminal forfeiture

Any person convicted of a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

- (1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;
- (2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and
- (3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 848 of this title, the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this subchapter or subchapter II of this chapter, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits

or

other

proceeds

(https://www.unodc.org/cld/legislation/usa/usc_title_21_-_food_and_drugs/chapter_13/section_853/section_853.html?lng=en).

Charge details:

Criminal Forfeiture

Verdict: Other



Court

United States District Court for the Eastern District of California



Sources / Citations

- AlphaBay, the Largest Online 'Dark Market,' Shut Down: https://www.justice.gov/opa/pr/alphabay-largest-online-dark-market-shut-down
- Alexandre Cazes Indictment: https://www.justice.gov/opa/press-release/file/982826/download
- Alexandre Cazes Forfeiture Complaint:
 https://www.justice.gov/opa/press-release/file/982821/download



Attachments

<u>alphabay-cazes_forfeiture_complaint.pdf</u> <u>alphabay-cazes_indictment_redacted.pdf</u>

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