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Tornado Cash Crypto Transaction Mixing Sanctions Stand

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A year ago we wrote about how the US Treasury Department sanctioned a [crypto transaction mixing](#) service. A year later an appeal to the courts to reverse that decision came to naught. Tornado cash crypto transaction mixing sanctions stand. The appeal to the court in the Tornado Cash crypto transaction mixing case brings two issues to mind. What are the merits of the sanctions against Tornado Cash and those who used its services? And can those sanctions be reversed by going after the technicalities of the case?

Why Did the US Treasury Go After Tornado Cash?

According to the Foreign Assets Control Office of the Department of the Treasury, Tornado Cash laundered in excess of \$7 billion in cryptocurrencies since it began business in 2019. The action of the Treasury was to sanction individual crypto wallets associated with Tornado Cash. And they sanctioned the blockchain smart contract code related to these transactions. Was there really any hanky-panky going on with Tornado Cash? Chainalysis is a digital asset research company. This year they stated that about \$2 billion in crypto assets stolen by North Korean hacking groups had been laundered through Tornado Cash. This alone would appear to make [sanctions on Tornado Cash](#) valid.

What Was the Basis of the Tornado Cash Appeal?

Coinbase funded the appeal which was done by six individuals. Their argument was that smart contracts should not be sanctioned. They contended that neutral tools and technologies do not fall within the law regarding sanctions that Congress passed. In an interview one of the plaintiffs said, "Just because armed robbers used a highway doesn't mean the highway should be banned. We felt compelled to act." It should be noted that this is a common tactic of lawyers who want to appeal something. If they cannot bring down a ruling based on the facts (Tornado Cash laundered billions in hacked cryptocurrencies), they will go after the details and say the decision was improper on that basis.

What Was the Judge's Ruling Regarding Sanctioning Smart Contract Code?

Part of the plaintiffs' attempt to overturn the initial decision was based on rulings in other courts regarding open source code. It turns out the smart contracts used by Tornado Cash are proprietary. They are routinely modified by Tornado Cash. The judge ruled that such smart contract code is property of Tornado Cash and thus falls within the law regarding sanctions against North Korean hackers. The judge is even said to have compared this smart contract code to vending machines which, like code, can act autonomously but can be periodically serviced and modified by its owners.

There were also free speech arguments in the attempt to overturn the original ruling and they were also denied. The complete case ruling for [Case 1:23-cv-00312-RP](#) can be seen by following the link. It is extremely dense reading but that is typical for such legal arguments. The bottom line is that the plaintiffs failed to reverse

the initial ruling based on technical arguments about authority granted under the law, free speech, etc.

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