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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

SHMIEL WEINGARTEN, YOIL WEINGARTEN, and YAKOV WEINGARTEN,

Defendants.

S3 19-CR-497 (NSR)
(06) (07) (08)

AMENDED OPINION & ORDER

NELSON S. ROMÁN, United States District Judge:

This case involves the kidnapping of two minors, Minor-1 and Minor-2 (collectively, "the Minors"), from their Mother in New York by members of Lev Tahor, an insular religious community currently based in Guatemala, of which the Mother and the Minors were previously members. *Pro se* Defendants Shmiel Weingarten, Yakev Weingarten,[1] and Yoil Weingarten (collectively, the "Weingartens") are members of Lev Tahor whom the Government charged in a six-count superseding indictment for their involvement in the kidnapping of the Minors.[2] ("S3," ECF No. 358.) A jury trial for the Weingartens is scheduled on February 27, 2024.

Presently pending before the Court are the parties' motions in *limine* in anticipation of such jury trial: the Government's motion ("Gov't MIL," ECF No. 927), Yakev's Opposition ("Defs. Opp.," ECF No. 936), which Shmiel and Yoil both joined in full (ECF Nos. 934, 935), and the

[1] While the Indictment charges "Yakov" Weingarten, the parties indicate the correct spelling of the defendant's first name is "Yakev."

[2] The Government also charged Nachman Helbrans (01), Mayer Rosner (02), Aron Rosner (03), Jacob Rosner (04), Matityau Malka (05), and Mordechay Malka (09). On March 31, 2022, the Court sentenced Nachman Helbrans and Mayer Rosner after a jury found them guilty of the offenses charged against them. On September 7 and September 9, 2022, the Court sentenced Matityau and Mordechay Malka after a jury found them guilty of the offenses charged against them. On September 7, 2022, the Court sentenced Jacob Rosner upon him entering a guilty plea pursuant to an agreement with the Government. On June 6, 2023, the Court sentenced Aron Rosner also pursuant to a guilty plea.

Given that most of these defendants share the same last names, the Court will refer individually to the Defendants by their first name for the sake of clarity.

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Government's Reply (Gov't Reply, ECF No. 938). This opinion amends the opinion previously issued by this Court on February 12, 2024.[3] (ECF No. 963.) For the following reasons, the Court GRANTS IN PART and DENIES IN PART the Government's motions.

BACKGROUND

The following background derives from the Government's allegations as charged in the S3 Superseding Indictment and other relevant court filings.

I. Lev Tahor and the "Marriage" of Minor-1

All Defendants in this case are members of Lev Tahor, a Jewish religious community of about 250 members founded in the 1980s by Nachman Helbrans's father. (S3 ¶ 3.) Nachman took over as the community's leader after his father passed away in 2016 or 2017. (*Id.*) Regardless of their age, all brides in the Lev Tahor community are required to have sex with their husbands on predetermined intervals and new brides and grooms are instructed by community leaders on when and how to have sex before they are married. (*Id.* ¶ 7.)

In 2017, Nachman arranged to have Minor-1, his then-twelve-year-old niece, engaged to be religiously "married" to Jacob Rosner, who was eighteen years old at the time. (*Id.* ¶ 6.) Minor-1 and Jacob were religiously "married" the following year when she was thirteen and he was nineteen. (*Id.*) They were never legally married. (*Id.*) They immediately began a sexual relationship with the goal of procreation. (*Id.*)

[3] The Court's prior opinion stated Defendants opposed the Government's motion on the grounds that the Government sought to introduce irrelevant and prejudicial evidence regarding "Yakev's marriage" and to preclude evidence on the consensual nature of "Minor-1 and Yakev's sexual relationship." (ECF No. 963 at 14.) This has been corrected to "Jacob," who was married to and engaged in a sexual relationship with Minor-1. (*See infra* at 14.)

The Court also mistakenly referred to the Malkas' motion to dismiss and opposition to the Government's motion in limine as a "50-page motion accompanied by seven exhibits spanning over 100 pages." (ECF No. 963 at 17.) This has been corrected to "over three hundred pages." (*See infra* at 17.) The Court's point, however, still stands.

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II. Mother and Minors relocate to the United States

In early November 2018, the Mother and her six children, including the Minors, left Lev Tahor and relocated to the United States. (*Id.* ¶ 8.)

On November 14, 2018, the Kings County Family Court in Brooklyn, New York (the "Family Court") granted the Mother temporary sole custody over her six children, including the Minors, and enjoined the children's father, Aaron Teller, a leader in the Lev Tahor community not named as a defendant in this case, from having any communication with the children. (*Id.*) The orders of the Family Court are collectively referred to as "the Family Court Order."

III. December 2018

After the Mother and her children left Guatemala, the Defendants and others devised a plan to return the Minors, then fourteen and twelve years old, to Lev Tahor. (*Id.* ¶ 9.) At approximately 3:00 a.m., on December 8, 2018, Helbrans, Mordechay, Jacob, Shmiel, and others removed the Minors from a home in Woodridge, New York. (*Id.* ¶ 10.) They, along with others, took the Minors to a hotel where they were provided with new clothes before they were driven to Scranton International Airport in Pennsylvania. Nachman and the Minors, dressed in secular clothing, and using passports bearing the names of two of Nachman's children proceeded through airport security in Scranton, flew to Washington, D.C., then to Texas, and then took a bus across the border to Mexico. (*Id.* ¶ 11.) Other Defendants, including Mordechay, Shmiel, and Jacob, took separate routes out of the country to Mexico. (*Id.*) Once in Mexico, Nachman and others transported the Minors to several hotels and residences with assistance from Lev Tahor members in the United States, Mexico, and Guatemala. At various times, Nachman and the Minors were met by Mayer Rosner, Jacob, Yoil Weingarten, Matityau, and others. (*Id.* ¶ 12.)

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