

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

No. 2:12-cv-184-WKS

KENNETH L. MILLER, et al.,

Defendants.

**PLAINTIFFS' RESPONSE IN OPPOSITION TO
DEFENDANT TIMOTHY D. MILLER'S
MOTION TO DISMISS**

Plaintiffs Janet Jenkins and Isabella Miller-Jenkins claim Defendant Timothy Miller and his coconspirators tortiously interfered with Jenkins's parental rights and blocked the enforcement of orders of the Vermont and Virginia courts awarding custody of the child Isabella to plaintiff. More than three-and-a-half years after being served process, Defendant now makes an appearance through counsel and moves to dismiss the complaint against him for insufficient service of process and lack of personal jurisdiction. He argues that Plaintiffs failed to comply with this Court's order permitting substitute service of process through his criminal attorney because Plaintiffs handed the summons and complaint to the secretary at his criminal attorney's firm. He also argues that he had insufficient contacts with Vermont because Plaintiffs allege he acted from Nicaragua with the goal of transporting Lisa Miller and Plaintiff's daughter Isabella to Nicaragua.

The motion should be denied. Plaintiffs properly served Defendant through his criminal attorney, and Vermont courts have personal jurisdiction over Defendant because he helped kidnap Isabella to prevent Vermont's courts from enforcing its orders giving Jenkins, a Vermont resident, parental rights over Isabella.

STATEMENT OF THE CASE

On September 21, 2009, four days before Janet Jenkins and seven-year-old Isabella Miller-Jenkins were scheduled to have parent–child contact per a Vermont court order, Defendant and others helped Isabella’s other parent, Lisa Miller, kidnap Isabella from her home in Forest, Virginia to Nicaragua. Jenkins, who since then was given sole physical and legal custody of Isabella by the Vermont court, has not seen her daughter since January 2009.

In 2016, Defendant pleaded guilty to conspiring to kidnap Isabella to obstruct Jenkins’s parental rights. Plea Agreement, *United States v. Timothy Miller*, No. 1:14-cr-175 (W.D.N.Y. filed Nov. 30, 2016) (ECF 191) (attached as Exhibit 1); Judgment, *Timothy Miller*, No. 1:14-cr-175 (W.D.N.Y. Mar. 28, 2017) (ECF 191) (attached as Exhibit 2). He first admitted to his role in the kidnapping of Isabella to thwart Vermont’s courts in 2012 in sworn deposition testimony in the criminal prosecution of his coconspirator Kenneth Miller, who is also a defendant in this case. Timothy Miller Dep. Tr. at 13, *United States v. Kenneth L. Miller*, No. 2:11-cr-161 (D. Vt. filed July 31, 2012) (ECF 48-1) (attached as Exhibit 3). Defendant testified that, on September 21, 2009, Kenneth Miller told him that Lisa Miller wanted to leave the United States to Nicaragua because a court might transfer custody of her child to another woman and Nicaragua would not extradite them. *Id.* at 13–14, 24. He learned that Lisa Miller’s lawyers were “telling her she will probably lose the case because the homosexuals and lesbians are trying to make an example of the case.” *Id.* at 17.

To prevent implementation of the expected order of the Vermont courts taking Isabella from Lisa Miller, Defendant purchased airplane tickets for Lisa Miller and Isabella, choosing a route that would not stop in the United States. Ex. 3 at 15, 21–23; *see also* Revised Second Am. Compl. ¶ 38, ECF 223. He called the travel agency when Lisa Miller faced a problem at the airport in Toronto. Ex. 3 at 35–36. He emailed Andrew Yoder requesting information about

Nicaragua's requirements for obtaining residency, so that Lisa Miller could have the proper paperwork if she needed to stay in Nicaragua. *Id.* at 29–30. He advised his family not to discuss Lisa Miller by email, to avoid her later being traced to Nicaragua. *Id.* at 31–33. He picked up Lisa Miller and Isabella from the airport in Nicaragua and drove them about eighty miles north to Jinotega, so they would not be found at Defendant's home in Managua. *Id.* at 37–40. He helped them rent an apartment about three blocks away from Defendant's home when they moved to Managua a few weeks later. *Id.* at 44–45. He allowed Lisa Miller to visit his home to teach his children and Jessica Fehr, a young girl who was living with Defendant. *Id.* at 45; *see also* Rev. Second Am. Compl. ¶ 57, ECF 223. He arranged to pick up a delivery of Lisa Miller and Isabella's belongings brought from Virginia to Nicaragua. *See* RUL0926–RUL0927, RUL0930–RUL0934 (documents produced by Defendant Response Unlimited, Inc. in this case) (attached as Exhibit 4).

Even after Defendant learned that a Vermont court transferred custody of Isabella from Lisa Miller to Jenkins on November 20, 2009, Ex. 3 at 47; *see also* Ex. A to Pls.' Resp. Opp'n to Defs.' Mots. Dismiss at 23, ECF 261-1, Defendant continued to help keep Isabella in Nicaragua and away from Vermont's reach. He gave Lisa Miller access to the internet and to Fehr's email account, to which he had the password, to send emails from Nicaragua, including to Defendant. 9/22/16 Tr. at 210–13, *United States v. Philip Zoghiates*, No. 1:14-cr-175 (W.D.N.Y.) (attached as Exhibit 5). He helped arrange for Lisa Miller and Isabella's return to Jinotega. Ex. 3 at 54. He arranged for cash to be brought to Nicaragua from the United States. Ex. 3 at 58–61; *see also* Rev. Second Am. Compl. ¶ 56, ECF 223.

Plaintiffs filed their complaint in this case on August 14, 2012. Defendant was still in Nicaragua, and Plaintiffs were not successful in personally serving him there. Pls.' Mot. for

Alternate Service of Timothy Miller at 2, ECF 178 (filed Dec. 16, 2014). Plaintiffs moved under Rule 4(f)(3) of the Federal Rules of Civil Procedure for permission to serve process on Defendant through Jeffrey A. Conrad of the firm Clymer, Musser & Conrad, a small-sized firm of fewer than ten attorneys. Pls.’ Mot. Alternate Service Timothy Miller at 2, ECF 178 (filed Dec. 16, 2014). Conrad had appeared pro hac vice on Defendant’s behalf in both criminal cases pending against him for his involvement in the conspiracy. *See* Text Order, *United States v. Timothy Miller*, No. 5:11-cr-44 (D. Vt. June 13, 2011) (ECF 22) (granting Conrad’s motion for admission pro hac vice) (attached as Exhibit 6); Text Order, *Timothy Miller*, No. 1:14-cr-175 (W.D.N.Y. Dec. 5, 2014) (ECF 17) (same) (attached as Exhibit 7). This Court granted Plaintiffs’ motion for alternate service as unopposed. Text Order, ECF 183 (Mar. 6, 2015).

A process server hired by Plaintiffs served Conrad on March 30, 2015 by hand-delivering a copy of the summons and complaint to Kathy Amaro, the secretary at his law office in Lancaster, Pennsylvania. *See* Returned Summons, ECF 193 (filed Apr. 9, 2015). It was the practice of the process server’s firm to serve process on an individual by handing the summons and complaint to a third party only if that third party represented that she was authorized to accept service for the individual to be served. Soto Decl. ¶ 3. Defendant did not file an answer or Rule 12 motion by the April 20, 2015 deadline, or at any time since. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). Defendant now moves to dismiss the complaint against him.

ARGUMENT

I. Plaintiffs Served Process on Defendant Through His Counsel

Plaintiffs complied with Rule 4(f)(3) of the Federal Rules of Civil Procedure, which permits Plaintiffs to serve Defendant, who at the time was outside the United States, “by other means not prohibited by international agreement, as the court orders.” This Court ordered that Plaintiffs could serve process on Defendant by serving Defendant’s attorney in the related

criminal matters. ECF 183. Rule 4(e)(1), in turn, permitted Plaintiffs to serve Defendant's attorney by "following state law for serving a summons in an action brought in courts of general jurisdiction in the state . . . where service is made."

Pennsylvania's civil procedure rules permitted Plaintiffs to hand-deliver the summons and complaint to the secretary at Conrad's law firm. Rule 402(a)(2)(iii) permits service of process "by handing a copy . . . at any office or usual place of business of the defendant to his agent or to the person for the time being in charge thereof." Service under this rule may be made on the business's secretary. *Grand Entertainment Group, Ltd. v. Star Media Sales, Inc.*, 988 F.2d 476, 486 (3d Cir. 1993); *Fireman's Fund Ins. Co. v. Myers*, 290 F. Supp. 405, 406 (E.D. Pa. 1968). Defendant points out that Amaro, Conrad's secretary, was not in charge of Defendant's place of business. *See* Br. Supporting Mot. to Dismiss at 9, ECF 337-1. But Plaintiffs properly read Pennsylvania's rule with respect to Conrad, not Defendant, because this Court authorized Plaintiffs to serve Defendant through Conrad. Amaro, whom Plaintiffs' process server identified as the secretary at Conrad's firm who accepted service of process, was "the person for the time being in charge" of Conrad's office for purposes of the rule. Therefore, Plaintiffs complied with this Court's order permitting service of process on Defendant through his criminal attorney.¹

Defendant also asserts that "[c]ourts have generally held that service upon a secretary or receptionist is not effective in the absence of evidence that the secretary or receptionist has been appointed to receive service by the person who must be served." *Id.* at 10. He cites to cases in which the secretary did not have, or purport to have, authorization to accept service of process.

¹ Even if Plaintiffs' service of process on Defendant were inadequate, this Court has discretion to extend the time for service of process, whether or not good cause exists. *See* Fed. R. Civ. P. 4(m); *Zapata v. City of New York*, 502 F.3d 192, 196 (2d Cir. 2007). Defendant was abroad when Plaintiffs originally tried to serve him, Plaintiffs had reason to believe he had actual notice of this case based on his family's ongoing communications with Defendant Kenneth Miller, and his attorney knew that Plaintiffs were attempting to serve his client in this case. Plaintiffs requested and received permission from this Court to use substituted means of serving Defendant, and Plaintiffs substantially complied with that order. Defendant would not be prejudiced by an extension because this case has only just entered discovery.

See id. (citing *McCord v. Bd. of Educ.*, No. 17-5548, 2018 WL 1724560, at *3 (6th Cir. Jan. 30, 2018); *Allison v. Utah Cty. Corp.*, 335 F. Supp. 2d 1310, 1314 (D. Utah 2004); *Amnay v. Del Labs*, 117 F. Supp. 2d 283, 286 (E.D.N.Y. 2000)). Those cases are inapposite. It is the practice of the process servers at the firm hired by Plaintiffs' counsel to serve process on an individual by handing the summons and complaint to a third party only if that third party represents that she is authorized to accept service for the individual to be served. *See Soto Decl.* ¶ 3. Therefore, Plaintiffs' process server would not have served Conrad by handing the summons and complaint to Amaro had she not represented to the process server that she had authorization to accept service for Conrad.

II. Defendant Established Sufficient Contacts with Vermont by Hindering Its Courts

This Court may exercise specific personal jurisdiction over Defendant because his tortious acts were aimed at hindering Vermont courts from enforcing their orders concerning Isabella's custody. At this stage of the case, Plaintiffs need only "make a prima facie showing that jurisdiction exists." *In re Terrorist Attacks on Sept. 11, 2011*, 714 F.3d 659, 673 (2d Cir. 2013). Specific personal jurisdiction "focuses on 'the relationship among the defendant, the forum, and the litigation,'" and requires that "the defendant's suit-related conduct . . . create a substantial connection with the forum State." *Walden v. Fiore*, 571 U.S. 277 (2014) (quoting *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 775 (1984)).

Unlike in *Walden*, 571 U.S. 277, on which Defendant relies, *see Br. Supporting Mot. to Dismiss* at 7–8, ECF 337-1—where the only link between the defendant, the forum, and the litigation was the plaintiff's residency in the forum—Defendant, Vermont, and this case are linked by more than Jenkins's mere residency in Vermont. Plaintiffs' first claim against Defendant is premised on his tortious interference with Jenkins's parental rights over Isabella as

established by Vermont court orders; Plaintiffs' second claim is premised in part on Defendant's participation in a conspiracy to hinder the Vermont courts' ability to enforce their orders. By Defendant's own admission, he helped Lisa Miller kidnap Isabella to Nicaragua and keep her hidden there because a Vermont court might, and then did, transfer custody of Isabella to Jenkins. Defendant might have acted from his home in Nicaragua, but he did so to prevent Vermont courts from giving effect to their orders granting a Vermont resident custody of her child. Defendant created the minimum contacts required to hale him into court in Vermont by impeding Vermont's courts.

CONCLUSION

For the foregoing reasons, Defendant's motion to dismiss should be denied.

October 31, 2018

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Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing document was filed through the Court's CM/ECF filing system, and by virtue of this filing notice will be sent electronically to all counsel of record, including the following:

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October 31, 2018

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**DECLARATION OF DIEGO A. SOTO
IN SUPPORT OF PLAINTIFFS' RESPONSE IN OPPOSITION TO
DEFENDANT TIMOTHY D. MILLER'S MOTION TO DISMISS**

I, Diego A. Soto, declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. I am a Staff Attorney at the Southern Poverty Law Center and represent Plaintiffs in this case.

2. On October 17, 2018, I spoke by phone with an individual at Shinkowsky Investigations at the phone number (717) 540-0631. Shinkowsky Investigations is the Pennsylvania Private Investigation Agency in Harrisburg, Pennsylvania that Plaintiffs' counsel hired to serve process on Jeffrey Conrad in March 2015.

3. The individual stated to me that it is the practice of Shinkowsky Investigations's process servers to serve process on an individual by handing the summons and complaint to a third party only if that third party represents that she is authorized to accept service for the individual to be served.

4. On October 30, 2018, I spoke by phone with another individual at Shinkowsky Investigations at the phone number (717) 540-0631.

5. That individual stated to me that Robert Calantropio, the process server who served Mr. Conrad by serving Kathy Amaro, a secretary at Mr. Conrad's firm, was an independent contractor who no longer contracts with Shinkowsky Investigations.

6. Exhibit 1 is a true and correct copy of Defendant Timothy Miller's plea agreement filed on November 30, 2016, in *United States v. Timothy Miller*, No. 1:14-cr-175, in the United States District Court for the Western District of New York, which I downloaded from PACER.

7. Exhibit 2 is a true and correct copy of the judgment against Defendant Timothy Miller filed on March 28, 2017, in *United States v. Timothy Miller*, No. 1:14-cr-175, in the United States District Court for the Western District of New York, which I downloaded from PACER.

8. Exhibit 3 is a true and correct copy of the transcript of Defendant Timothy Miller's August 8, 2012 deposition in *United States v. Kenneth L. Miller*, No. 2:11-cr-161, in the United States District Court for the District of Vermont, which the government filed as an exhibit in that case and which I downloaded from PACER.

9. Exhibit 4 is a true and correct copy of documents produced by Defendant Response Unlimited, Inc. on July 8, 2015, in the above-captioned matter, which were marked for identification purposes as Bates numbers RUL0926, RUL0927, and RUL0930 through RUL0934.

10. Exhibit 5 is a true and correct copy of the transcript of the testimony of Jessica Fehr during the trial proceedings on September 22, 2016, in *United States v. Philip Zodiates*, No. 1:14-cr-175, in the United States District Court for the Western District of New York, which I downloaded from PACER.

11. Exhibit 6 is a true and correct copy of the docket sheet in *United States v. Timothy Miller*, No. 5:11-cr-44, in the United States District Court for the District of Vermont, which I downloaded from PACER.

12. Exhibit 7 is a true and correct copy of the docket sheet in *United States v. Timothy Miller*, No. 1:14-cr-175, in the United States District Court for the Western District of New York, which I downloaded from PACER.

October 31, 2018



Diego A. Soto

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

v.

14-CR-175-A

TIMOTHY MILLER,

Defendant.

PLEA AGREEMENT

The defendant, Timothy Miller, and the United States Attorney for the Western District of New York (hereinafter "the government") hereby enter into a plea agreement with the terms and conditions as set out below.

I. THE PLEA AND POSSIBLE SENTENCE

1. The defendant agrees to plead guilty to Count 1 of the Superseding Indictment which charges a violation of Title 18, United States Code, Section 371 [conspiracy to commit international parental kidnapping] for which the maximum possible sentence is a term of imprisonment of 5 years, a fine of \$ 250,000, a mandatory \$100 special assessment and a term of supervised release of 3 years. The defendant understands that the penalties set forth in this paragraph are the maximum penalties that can be imposed by the Court at sentencing.

2. The defendant understands that the Court may require restitution in the amount not to exceed \$50,000 as part of the sentence, pursuant to Sentencing Guidelines § 5E1.1 and Title 18, United States Code, Section 3663. The defendant understands that

defendant will not be entitled to withdraw the plea of guilty based upon any restitution amount ordered by the Court.

3. The defendant understands that, if it is determined that the defendant has violated any of the terms or conditions of supervised release, the defendant may be required to serve in prison all or part of the term of supervised release, up to 2 years, without credit for time previously served on supervised release. As a consequence, in the event the defendant is sentenced to the maximum term of incarceration, a prison term imposed for a violation of supervised release may result in the defendant serving a sentence of imprisonment longer than the statutory maximum set forth in ¶ 1 of this agreement.

II. ELEMENTS AND FACTUAL BASIS

4. The defendant understands the nature of the offense] set forth in ¶ 1 of this agreement and understands that if this case proceeded to trial, the government would be required to prove beyond a reasonable doubt the following elements of the crime:

- a. That Isabella Miller Jenkins was previously in the United States;
- b. that the defendant agreed with others including Lisa Miller and Ken Miller to assist the taking of Isabella Miller Jenkins from the United States and retaining the child outside the United States; and
- c. the defendant acted with the intent to obstruct the lawful exercise of parental rights of Janet Jenkins.

FACTUAL BASIS

5. The defendant and the government agree to the following facts, which form the basis for the entry of the plea of guilty including relevant conduct:

- a. That Isabella Miller Jenkins is the daughter of Lisa Miller and Janet Jenkins. Prior to September 22, 2009, Isabelle Miller Jenkins lived in the United States and Janet Jenkins had the parental right to visit Isabella Miller.
- b. That on or about September 21, 2009, the defendant was a Mennonite minister in Managua, Nicaragua when he was contacted by Kenneth Miller. Kenneth Miller told the defendant that Lisa Miller was looking to leave the United States with her daughter Isabella Miller Jenkins as she could lose custody of Isabella to Janet Jenkins.
- c. Based on this information, the defendant agreed to assist in arranging Lisa's and Isabella's departure from the United States. The defendant did also purchase one-way airline tickets on September 21, 2009, for Lisa and Isabella to travel from Canada to Managua, Nicaragua on September 22, 2009.
- d. Lisa and Isabella departed Canada on or about September 22, 2009, and arrived in Managua, Nicaragua. The defendant learned in November 2009 that Janet Jenkins was award custody of Isabella Miller Jenkins. The defendant continued to assist Lisa Miller with assistance up to and including May 2010 when he accepted and provided Lisa Miller with money.

III. SENTENCING GUIDELINES

6. The defendant understands that the Court must consider but is not bound by the Sentencing Guidelines (Sentencing Reform Act of 1984).

BASE OFFENSE LEVEL

7. The government and the defendant agree that Guidelines § 2J1.2(a) applies to the offense of conviction and provides for a base offense level of 14.

SPECIFIC OFFENSE CHARACTERISTICS
U.S.S.G. CHAPTER 2 ADJUSTMENTS

8. The government and the defendant agree that the following specific offense characteristics do apply:

- a. the 3 level increase pursuant to Guidelines § 2J1.2(b)(2) [the offense involved a substantial interference with the administration of justice].
- b. The 2 level increase pursuant to Guideline §2J1.2(b)(3)(C) [extensive in scope preparation or planning]

ADJUSTED OFFENSE LEVEL

9. Based on the foregoing, it is the understanding of the government and the defendant that the adjusted offense level for the offense of conviction is 19.

ACCEPTANCE OF RESPONSIBILITY

10. At sentencing, the government agrees not to oppose the recommendation that the Court apply the two (2) level downward adjustment of Guidelines § 3E1.1(a) (acceptance of responsibility) and further agrees to move the Court to apply the additional one (1) level downward adjustment of Guidelines § 3E1.1(b), which would result in a total offense level of 16.

CRIMINAL HISTORY CATEGORY

11. It is the understanding of the government and the defendant that the defendant's criminal history category is I. The defendant understands that if the defendant is sentenced for, or convicted of, any other charges prior to sentencing in this action the defendant's criminal history category may increase. The defendant understands that the

defendant has no right to withdraw the plea of guilty based on the Court's determination of the defendant's criminal history category.

GUIDELINES' APPLICATION, CALCULATIONS AND IMPACT

12. It is the understanding of the government and the defendant that, with a total offense level of 16 and criminal history category of I, the defendant's sentencing range would be a term of imprisonment of 21 to 27 months, a fine of \$5,000 to \$50,000, and a period of supervised release of 1 to 3 years. Notwithstanding this, the defendant understands that at sentencing the defendant is subject to maximum penalties set forth in ¶ 1 of this agreement.

13. The government and the defendant agree to the correctness of the calculation of the Sentencing Guidelines range set forth above. The government and the defendant, however, reserve the right to recommend a sentence outside the Sentencing Guidelines range. This paragraph reserves the right to the government and the defendant to bring to the attention of the Court all information deemed relevant to a determination of the proper sentence in this action.

14. The defendant understands that the Court is not bound to accept any Sentencing Guidelines calculations set forth in this agreement and the defendant will not be entitled to withdraw the plea of guilty based on the sentence imposed by the Court.

IV. STATUTE OF LIMITATIONS

15. In the event the defendant's plea of guilty is withdrawn, or conviction vacated, either pre- or post-sentence, by way of appeal, motion, post-conviction proceeding, collateral attack or otherwise, the defendant agrees that any charges dismissed pursuant to this agreement shall be automatically reinstated upon motion of the government and further agrees not to assert the statute of limitations as a defense to any other criminal offense involving or related to international parental kidnapping which is not time barred as of the date of this agreement. This waiver shall be effective for a period of six months following the date upon which the withdrawal of the guilty plea or vacating of the conviction becomes final.

V. GOVERNMENT RIGHTS AND RESERVATIONS

16. At sentencing, the government agrees not to oppose the recommendation that the Court sentence the defendant at the lowest point of the Guidelines range determined by the Court.

17. The defendant understands that the government has reserved the right to:
- a. provide to the Probation Office and the Court all the information and evidence in its possession that the government deems relevant concerning the defendant's background, character and involvement in the offense charged, the circumstances surrounding the charge and the defendant's criminal history;
 - b. respond at sentencing to any statements made by the defendant or on the defendant's behalf that are inconsistent with the information and evidence available to the government;
 - c. advocate for a specific sentence consistent with the terms of this agreement including the amount of restitution and/or a fine and the method of payment;

- d. modify its position with respect to any sentencing recommendation or sentencing factor under the Guidelines including criminal history category, in the event that subsequent to this agreement the government receives previously unknown information, including conduct and statements by the defendant subsequent to this agreement, regarding the recommendation or factor;
- e. oppose any application for a downward departure and/or sentence outside the Guidelines range made by the defendant.

18. At sentencing, the government will move to dismiss the open count of the Superseding Indictment in this action as against the defendant.

19. The defendant agrees that any financial records and information provided by the defendant to the Probation Office, before or after sentencing, may be disclosed to the United States Attorney's Office for use in the collection of any unpaid financial obligation.

VI. APPEAL RIGHTS

20. The defendant understands that Title 18, United States Code, Section 3742 affords a defendant a limited right to appeal the sentence imposed. The defendant, however, knowingly waives the right to appeal and collaterally attack any component of a sentence imposed by the Court which falls within or is less than the sentencing range for imprisonment, a fine and supervised release set forth in Section III, ¶12, above, notwithstanding the manner in which the Court determines the sentence. In the event of an appeal of the defendant's sentence by the government, the defendant reserves the right to argue the correctness of the defendant's sentence. The defendant further agrees not to appeal a restitution order which does not exceed the amount set forth in Section I of this agreement.

21. The defendant understands that by agreeing not to collaterally attack the sentence, the defendant is waiving the right to challenge the sentence in the event that in the future the defendant becomes aware of previously unknown facts or a change in the law which the defendant believes would justify a decrease in the defendant's sentence.

22. The government waives its right to appeal any component of a sentence imposed by the Court which falls within or is greater than the sentencing range for imprisonment, a fine and supervised release set forth in Section III, ¶12, above, notwithstanding the manner in which the Court determines the sentence. However, in the event of an appeal from the defendant's sentence by the defendant, the government reserves its right to argue the correctness of the defendant's sentence.

VII. COOPERATION

23. The defendant will cooperate with the government by providing complete and truthful information regarding the defendant's knowledge of any and all criminal activity, whether undertaken by the defendant or others, in any way involving or related to international parental kidnapping. The defendant's cooperation shall also include submitting to interviews by government attorneys and agents, as well as testifying truthfully and completely before grand juries and at such other proceedings as the government shall deem necessary, including, but not limited to pre-trial hearings, trials, sentencing hearings and forfeiture proceedings, and returning to the United States to testify if so requested.

24. The defendant's cooperation shall also be provided to any local, state or federal authorities designated by the government and who have agreed to abide by the terms of the "Cooperation" section of this agreement. The defendant's obligation to testify truthfully and completely shall extend to proceedings in local, state and federal courts in jurisdictions which have agreed to abide by this agreement.

25. In exchange for the defendant's plea of guilty and cooperation as set forth in this agreement, the defendant will not be prosecuted by the Office of the United States Attorney for the Western District of New York for any other federal criminal offenses committed in the Western District of New York in any way involving or related to international parental kidnapping, committed up to the date of this agreement and about which the defendant provides complete and truthful information.

26. Further, no testimony, statements or tangible objects provided by the defendant in compliance with this agreement (or any information directly or indirectly derived therefrom) will be used against the defendant in any criminal case, except a prosecution for perjury or making false statements.

27. Upon condition that the defendant has fully complied with all terms and conditions of this agreement, should the government determine that the defendant has provided substantial assistance in the investigation or prosecution of other persons who have committed offenses, the government will move the Court at sentencing to depart downward from the Guidelines 3 levels as provided for in Guidelines § 5K1.1, which, if granted by the

Court, would result in a total offense level of 13 and a sentencing range of 12 to 18 months imprisonment. The defendant understands that the decision to make such a motion is within the sole discretion of the government and that the decision to grant such a motion, and the extent of any downward departure, are matters solely within the discretion of the Court.

28. This agreement does not preclude the prosecution of the defendant for perjury or making false statements in the event the defendant testifies falsely or provides false information to the government. This agreement is not contingent upon the filing of charges against, the return of an Indictment against, or the successful prosecution of, any person or entity.

29. It is a condition of this agreement that, up through the date of the defendant's sentencing, the defendant shall commit no further crimes. It is also a condition of this agreement that the defendant must, at all times, give complete, truthful and accurate information and testimony and not withhold information from the government or refuse to testify truthfully and completely. Should the defendant be sentenced prior to the completion of the defendant's cooperation with the government, the defendant's obligation to comply with the cooperation provisions of this agreement extends past sentencing.

30. In the event the government believes the defendant has violated any of the conditions of the "Cooperation" section of this agreement, the government, in addition to its other rights as set forth in the "Cooperation" section of this agreement, reserves the right: (a) to modify any recommendation the government agreed to make in a motion pursuant to

Guidelines § 5K1.1 and/or Title 18, United States Code, Section 3553(e); and (b) to petition the Court, before or after sentencing, for an order declaring that the defendant has breached the “Cooperation” section and relieving the government of its obligations under this section.

31. In the event the government petitions the Court to declare that the defendant has breached the “Cooperation” section of this agreement, whether the defendant has violated any of the conditions of the “Cooperation” section shall be determined by the Court in an appropriate proceeding at which any disclosures and documents provided by the defendant shall be admissible and at which the government shall be required to establish any violation by a preponderance of the evidence. In order to establish any violation by the defendant, the government is entitled to rely on statements and information given by the defendant pursuant to this agreement.

32. If the “Cooperation” section of this agreement is declared breached by the Court:

- a. the defendant shall thereafter be subject to prosecution for any federal criminal violations of which the government has knowledge, including but not limited to, perjury and obstruction of justice;
- b. the government may withdraw any motion filed pursuant to Sentencing Guidelines § 5K1.1, Title 18, United States Code, Section 3553(e) and/or Rule 35(b);
- c. the defendant has no right to withdraw the plea of guilty;
- d. the defendant shall waive all rights under Fed. R. Crim. P. 11(f), Fed. R. Evid. 410 and Sentencing Guidelines § 1B1.8 and the defendant expressly agrees that all statements, testimony and tangible objects provided by the defendant (with the exception of statements made in open court during guilty plea proceedings), whether prior or subsequent to this agreement,

can be used directly and indirectly in any and all criminal proceedings against the defendant; and

- e. the defendant agrees that any charges that were dismissed pursuant to this agreement shall be automatically reinstated upon motion of the government. Furthermore, the defendant agrees not to assert the statute of limitations as a defense to any criminal offense involving or related to international parental kidnapping which is not time barred as of the date of this agreement. This waiver shall be effective for a period of six months following the date upon which the Court's order declaring the agreement breached by the defendant becomes final.

33. At the time of sentencing, the government will make the nature and extent of the defendant's compliance with this agreement known to the Court. The government and the defendant will request that sentencing be adjourned until full satisfaction by the defendant of the terms of this agreement. In the event the defendant is sentenced prior to the completion of the defendant's cooperation with the government, the government reserves the right to modify any recommendation to be made by the government at sentencing pursuant to Guidelines § 5K1.1.

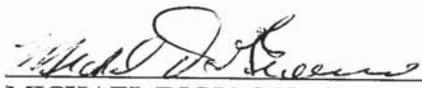
34. The defendant's attorney is permitted to be present at any time the defendant is questioned or interviewed by government agents regarding the matters set forth in this agreement.

VIII. TOTAL AGREEMENT AND AFFIRMATIONS

35. This plea agreement represents the total agreement between the defendant, Timothy Miller, and the government. There are no promises made by anyone other than

those contained in this agreement. This agreement supersedes any other prior agreements, written or oral, entered into between the government and the defendant.

JAMES P. KENNEDY, JR.
Acting United States Attorney
Western District of New York

BY: 
MICHAEL DIGIACOMO
Assistant United States Attorney

Dated: November 30th, 2016

I have read this agreement, which consists of 14 pages. I have had a full opportunity to discuss this agreement with my attorney, Jeffrey A. Conrad, Esq. I agree that it represents the total agreement reached between myself and the government. No promises or representations have been made to me other than what is contained in this agreement. I understand all of the consequences of my plea of guilty. I fully agree with the contents of this agreement. I am signing this agreement voluntarily and of my own free will.



TIMOTHY MILLER
Defendant

Dated: November 30, 2016



JEFFREY A. CONRAD, ESQ.
Attorney for the Defendant

Dated: November 30, 2016

UNITED STATES DISTRICT COURT

Western District Of New York

UNITED STATES OF AMERICA

v.

Timothy Miller

JUDGMENT IN A CRIMINAL CASE

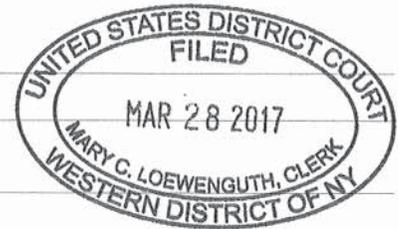
Case Number: 1:14CR00175-003

USM Number: 78268-083

Jeffrey A. Conrad
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count 1 of the Superseding Indictment
- pleaded nolo contendere to count(s) _____ which was accepted by the court.
- was found guilty on count(s) _____ after a plea of not guilty.



The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §371 as it relates to 18 U.S.C. §1204	Conspiracy to Commit International Parental Kidnapping	09/2009	1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count 2 of the Superseding Indictment is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

March 23, 2017
Date of Imposition of Judgment

Richard J. Arcara
Signature of Judge

Honorable Richard J. Arcara, Senior U.S. District Judge
Name and Title of Judge

March 27, 2017
Date

DEFENDANT: Timothy Miller
CASE NUMBER: 1:14CR00175-003

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:
Time Served
The cost of incarceration fee is waived.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Timothy Miller
 CASE NUMBER: 1:14CR00175-003

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: One (1) year

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Timothy Miller
CASE NUMBER: 1:14CR00175-003

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit to a search of his person, property, vehicle, place of residence or any other property under his control, based upon reasonable suspicion, and permit confiscation of any evidence or contraband discovered.

Travel restriction to the State of Pennsylvania.

DEFENDANT: Timothy Miller
CASE NUMBER: 1:14CR00175-003

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A Lump sum payment of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:
 The defendant shall pay a special assessment of \$100, which shall be due immediately. If incarcerated, payment shall begin under the Bureau of Prisons Inmate Financial Responsibility Program. Payments shall be made to the Clerk, U.S. District Court (WD/NY), 2 Niagara Square, Buffalo, New York 14202.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

ATTACHMENT

Page 1

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

UNITED STATES OF :
AMERICA :
 :
vs. :
 :
KENNETH L. MILLER : NO. 2:11-CR-161

- - -
TUESDAY, DECEMBER 20, 2011
- - -

Videotaped deposition of TIMOTHY
MILLER, taken the at United States Attorney's
Office, 615 Chestnut Street, 12th Floor,
Philadelphia, Pennsylvania 19106, commencing
at 1:54 p.m., before Donna Bucci Stein,
Registered Professional Reporter and Notary
Public, and Daniel Grbich, Videotape Operator,
there being present:

* * *

VERITEXT NATIONAL COURT REPORTING COMPANY
MID-ATLANTIC REGION
1801 MARKET STREET, SUITE 1800
PHILADELPHIA, PENNSYLVANIA 19103

VERITEXT NATIONAL COURT REPORTING COMPANY
888-777-6690 ~ 215-241-1000 ~ 610-434-8588 ~ 302-571-0510

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APPEARANCES:

UNITED STATES DEPARTMENT OF
JUSTICE
BY: EUGENIA A. P. COWLES, ESQUIRE
11 Elmwood Avenue
P.O. Box 570
Burlington, Vermont 05402
Phone: (802) 951-6725
eugenia.cowles@usdoj.gov
Representing the Plaintiff

BOYLE, AUTRY & MURPHY
BY: DENNIS E. BOYLE, ESQUIRE
and
MEGAN SCHANBACHER, ESQUIRE
4660 Trindle Road, Suite 200
Camp Hill, Pennsylvania 17011
Phone: (717) 737-2430
deboyle@dennisboylelaw.com
Representing the Defendant

LAW OFFICES OF CLYMER, MUSSER,
BROWN & CONRAD, P.C.
BY: EMILY MUSSER BELL, ESQUIRE
408 West Chestnut Street
Lancaster, Pennsylvania 17063
Phone: (717) 299-7101 Ext 132
emily.bell@cmbclaw.com
Representing Timothy Miller

- - -

ALSO PRESENT: KENNETH MILLER

LINDA MILLER

MAX GALUSHA, Deputy U.S.
Marshal

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I N D E X

- - -

Testimony of: TIMOTHY MILLER

By Ms. Cowles 6-76-85

By Mr. Boyle 71-84

- - -

E X H I B I T S

- - -

NUMBER	DESCRIPTION	PAGE REFERENCED
1	E-mail dated 9/21/09	16
2	E-mail dated 9/22/09	28
3	E-mail dated 9/22/09	31
4	Two e-mails dated 9/10/09 and 9/25/09	49/50
5	E-mail dated 9/25/09	49/50
6	E-mail dated 10/19/09	49/50
7	E-mail dated 7/29/10	57
8	Two e-mails dated 5/5/10 and 5/11/10	58
9	E-mail dated 6/26/10	62
10	Two e-mails both dated 7/27/10	63
11	E-mail dated 11/10/10	66

- - -

1 TIMOTHY MILLER

2 THE VIDEOTAPE OPERATOR: My
3 name is Daniel Grbich representing
4 Veritext Mid-Atlantic Division. The
5 today date is December 20, 2011. The
6 time is approximately 1:54 p.m.

7 This deposition is being held
8 in the United States Attorney's Office
9 located at 615 Chestnut Street,
10 Philadelphia, Pennsylvania. The caption
11 of this case is the United States of
12 America versus Kenneth L. Miller which is
13 filed in the United States District Court
14 for the District of Vermont, Case Number
15 2:11-CR-161. The name of the witness is
16 Timothy Miller.

17 At this time will the
18 attorneys identify themselves and the
19 parties they represent, after which our
20 court reporter, Donna Stein, of Veritext
21 will swear in the witness and you may
22 proceed.

23 MS. COWLES: I'm Eugenia
24 Cowles. I'm an Assistant U.S. Attorney.

25 MS. BELL: I'm Emily Bell. I

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TIMOTHY MILLER

represent the witness, Timothy Miller.

MR. BOYLE: Dennis Boyle. I represent the defendant Ken Miller.

MS. SCHANBACHER: And Megan Schanbacher. I represent the defendant Ken Miller.

- - -

TIMOTHY MILLER, after having been affirmed, was examined and testified as follows:

- - -

THE WITNESS: I will affirm that I will say the truth.

MS. COWLES: Before we begin I'd like to put on the record our stipulation as to objections. The parties agree that all objections that might have been obviated or removed during the course of the deposition with the sole exception of objections to the form of the question are preserved and not waived by failure to make them before or during the deposition notwithstanding other rules that would apply in the

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TIMOTHY MILLER
absence of a stipulation.
Is that agreed?
MR. BOYLE: That is agreed.
- - -
EXAMINATION
- - -
BY MS. COWLES:
Q All right. Good morning, Mr.
Miller.
A Good afternoon.
Q It is afternoon, isn't it?
A Yes, I think so.
Q We started in the morning today.
A Yes. It's been a long time.
Q I know we talked for a while. I'm
Jeannie Cowles. I'm an Assistant U.S.
Attorney with the Department of Justice. We
have talked about the fact that you have
counsel present today. So, I just want to go
over a few matters before we begin
questioning.
First, have you ever had your
deposition taken before?
A No.

1 TIMOTHY MILLER

2 Q I'll be asking you a series of
3 questions to which you are under oath to
4 provide full and complete answers. If you
5 don't understand any questions I ask, please
6 let me know before you respond and I will
7 explain or rephrase the question. Okay?

8 A Okay.

9 Q If at any point you need to take a
10 break in these proceedings for any reason, if
11 you can let us know, we can take brief breaks
12 as we go forward. So, you will let me know
13 that as well?

14 A Yes.

15 Q And you just took an oath with the
16 court reporter in which you affirmed to tell
17 the truth in accordance with these
18 proceedings. Do you understand that that is
19 an obligation to tell the truth during these
20 proceedings?

21 A Yes, I do.

22 Q Do you have any concern about your
23 ability to speak here today, any medications
24 you've taken today or anything else that might
25 cloud your perception or your ability to

1 TIMOTHY MILLER

2 answer questions?

3 A Not as far as I know.

4 Q All right. Your counsel may make
5 some objections as we go through today, what
6 we just talked about, objections to the form
7 of a question. If that happens, take a moment
8 so your counsel and I can address that matter,
9 but then we'll ask you to go ahead and answer
10 the question. Do you understand that?

11 A Okay.

12 Q If we have any problems, the
13 attorneys will try to work that out for you so
14 it's not too confusing. All right?

15 A Yes.

16 Q Let's start first talking a bit
17 about your background. Can you just state
18 your full name for the record?

19 A Timothy Miller.

20 Q Where did you grow up, Mr. Miller?

21 A In Honduras.

22 Q What's your citizenship?

23 A I am Honduranian as well as a U.S.
24 citizen.

25 Q How did you come by your U.S.

TIMOTHY MILLER

1
2 citizenship?

3 A Because of birth abroad to American
4 parents.

5 Q Where are you currently residing?

6 A In Nicaragua.

7 Q What part of Nicaragua?

8 A Managua.

9 Q What kind of work do you do in
10 Managua?

11 A As far as for my living, I work as
12 an editor mostly.

13 Q You clarified that was for your
14 living. What other kind of work do you do in
15 Managua?

16 A I also am in charge of a
17 congregation there.

18 Q What kind of congregation?

19 A It's a congregation with a
20 Mennonite Christian -- or with a Christian
21 brotherhood.

22 Q That's what's commonly referred to
23 as Mennonite here in the United States?

24 A Not necessarily. There's very
25 many -- there's many groups within the

1 TIMOTHY MILLER

2 Mennonites, yes.

3 Q Okay. What you would describe as a
4 Christian Brethren?

5 A Christian Brotherhood.

6 Q Brotherhood?

7 A Yes.

8 Q What is your role within that
9 congregation in Managua?

10 A I'm a pastor.

11 Q Do you have family that lives with
12 you in Managua?

13 A Well, my family. My wife and my
14 children, yes.

15 Q What about other family in
16 Nicaragua?

17 A My parents live in Nicaragua, yes,
18 and some brothers.

19 Q I would like to turn your attention
20 now to September 21st of 2009. Did you
21 receive a call that day regarding an
22 individual named Lisa Miller?

23 A Yes.

24 Q Would you tell us about that call?

25 A I received a call from one of my

1 TIMOTHY MILLER

2 co-pastors in Waslala.

3 Q That's W-A-S --

4 A W-A-S-L-A-L-A.

5 Q And that's another area of
6 Nicaragua?

7 A Right. I used to live there.

8 Q Who was this pastor in Waslala who
9 called you?

10 A Tim Schrock.

11 Q Who is Tim Schrock?

12 A He's one of my co-pastors.

13 Q How long had you known Tim Schrock?

14 A Since '99.

15 Q Why was he calling you on September
16 21st of 2009?

17 A Because he told me that I'm going
18 to be receiving a call.

19 Q What kind of call were you going to
20 be receiving?

21 A I was going -- I was planning to
22 receive a call from someone named Ken Miller.

23 Q At the time Tim Schrock indicated
24 you were going to receive a call from someone
25 named Ken Miller did you know who Ken Miller

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TIMOTHY MILLER

was?

A No.

Q What, if anything, did Tim Schrock tell you about this call that was coming from Ken Miller?

MR. BOYLE: Objection.

Hearsay. I'm sorry.

MS. COWLES: That's fine.

MR. BOYLE: You may answer it.

BY MS. COWLES:

Q You can go ahead and answer the question.

A Please give me the question again.

Q What did Tim Schrock tell you about the call that you would receive from Ken Miller?

A He just told me that the call had to do with someone named Lisa Miller.

Q About what time of day did you receive this call from Tim Schrock?

A As I recall, about eight o'clock in the morning.

Q As a result of this phone call from Tim Schrock what, if anything, did you do?

1 TIMOTHY MILLER

2 A Well, at that point I would have
3 waited on the call.

4 Q What did you do while you were
5 waiting on this call to come?

6 A I would have also looked it up on
7 the internet.

8 Q What did you look up on the
9 internet?

10 A I looked up Lisa Miller.

11 Q Now, at some point in time did you
12 receive a call from Ken Miller?

13 A Yes.

14 Q When was that?

15 A As I recall, within the hour.

16 Q Within an hour of --

17 A Within an hour of having had the
18 other phone call.

19 Q What was the nature of the call
20 from Ken Miller?

21 A That there was someone in the U.S.
22 that wanted to leave and go to Nicaragua.

23 Q What were you told about this
24 person in the U.S. who wanted to go to
25 Nicaragua?

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TIMOTHY MILLER

A That she was -- that she had a court case -- there was a court case against her and her child.

Q First off, who told you that there was a court case against this person and her child?

A Who told me that?

Q Yes.

A I think, first of all, Tim would have told me about that.

Q Okay. Then moving on to the second call we started to talk about --

A Okay.

Q -- with Ken Miller --

A We've talked about that, yes.

Q What did Ken Miller tell you about this person who had a court case?

A That they were trying to transfer custody to another women for her child.

Q How did Ken Miller refer to this woman who wanted to come to Nicaragua?

A Lisa Miller.

Q Now, from this first conversation we're discussing did you have further

1 TIMOTHY MILLER
2 conversations with Ken Miller about Lisa
3 Miller?

4 A If we had some prior to that?

5 Q No. After this first conversation
6 we're just discussing did you have additional
7 conversations with Ken Miller?

8 A Yes.

9 Q As a result of those conversations
10 what, if anything, did you agree to do
11 regarding Lisa Miller?

12 A Buy some tickets.

13 Q What kind of tickets?

14 A Some airplane tickets.

15 Q For whom did you agree to buy
16 airplane tickets?

17 A For Lisa Miller and Isabella.

18 Q What route of travel were you
19 buying tickets for?

20 A From somewhere in Canada down to
21 Nicaragua.

22 Q What else did you -- what else, if
23 anything, did you agree to do for Lisa Miller?

24 A Pick her up at the airport.

25 Q I want to come back and talk a

1 TIMOTHY MILLER
2 little about the conversations leading up to
3 these agreements you just mentioned, but I'm
4 going to first hand you an exhibit, what I
5 will mark for identification as Government
6 Exhibit 1.

7 MS. COWLES: Will you pass a
8 copy to Defense Counsel?

9 BY MS. COWLES:

10 Q Now, Government Exhibit 1 is a
11 three-paged exhibit that appears to be an
12 e-mail from timjomiller@gmail.com to a number
13 of individuals listed as Lucas Miller, Andy
14 Yoder, Kevin Steiner, Keiner Barrantes and
15 Daniel Huber. The subject is Lisa Miller.

16 Can you tell us first, that
17 e-mail address at the top, timjomiller@
18 gmail.com, are you familiar with that e-mail
19 address?

20 A Yes.

21 Q How are you familiar with that?

22 A That's my e-mail.

23 Q What is the date of this e-mail?

24 A September 21, 2009.

25 Q And the time?

1 TIMOTHY MILLER

2 A 12:16 p.m.

3 Q Who are the individuals to whom you
4 sent this e-mail generally?

5 A Friends and people that would have
6 gone to our church.

7 Q If you can review the text of the
8 e-mail briefly, could you read that for the
9 record, please, just the top portion?

10 A Just the first --

11 Q Just the part before it says
12 "Peace, Timo".

13 A "The following is a strange case
14 that is coming up for a last hearing on
15 Wednesday before the Supreme Court, as I
16 understand. Lisa has some of the best lawyers
17 available, but they are telling her she will
18 probably lose the case because the homosexuals
19 and lesbians are trying to make an example of
20 the case. There is lots of politics involved
21 in the case. High up politics, and of course
22 the power of darkness."

23 Q Go on. If you can, read the next
24 section.

25 A "They tell me there is a lot of

1 TIMOTHY MILLER

2 people.

3 Q Who were those?

4 A Tim Schrock originally, and then
5 Ken Miller.

6 Q You say in the e-mail "Lisa has
7 some of the best lawyers available but they
8 are telling her she will probably lose".

9 Did you have an understanding
10 of who "they" are who are telling Lisa she
11 will probably lose?

12 A No, not as far as I know. I mean I
13 don't recall.

14 Q You also mention in the e-mail
15 "They tell me there is a lot of info on the
16 net about it, some not accurate. But
17 protectisabella.com is their site, from which
18 I took this". Again, who is the "they" that
19 you are referring to in that portion of the
20 e-mail?

21 A Well, that would have been
22 specifically about Lisa.

23 Q Take a look at that sentence
24 again. "They tell me there is a lot of info
25 on the net. But protectisabella.com is their

1 TIMOTHY MILLER

2 site." You're saying that "their" is Lisa, or
3 who is -- who is "their site"?

4 A It would definitely be about Lisa.

5 Q It's about Lisa?

6 A Yes.

7 Q Did you understand who put the
8 website up?

9 A Somebody who was friends of hers or
10 her herself. I didn't know at that point.

11 Q Do you recall how you were aware or
12 who had made you aware of the
13 protectisabella.com site at the time you sent
14 this e-mail?

15 A Not that I can recall. I would
16 have been on the net. So, I don't know if
17 this was -- if anybody at all would have told
18 me about it, I don't know.

19 Q So, you don't recall whether you
20 found it or whether someone told you?

21 A Or someone told me, yes.

22 Q You reference in the e-mail also
23 "strange circumstances and involvements".
24 What did you mean by that?

25 A Probably talking about the calls

1 TIMOTHY MILLER

2 that I would have received.

3 Q From at that point Tim Schrock and
4 Ken Miller?

5 A Yes.

6 Q Now, moving on from 12:16 on the
7 21st when you sent this e-mail, what else did
8 you do that day regarding Lisa Miller?

9 A Later on I would have bought
10 tickets.

11 Q How did you buy the tickets?

12 A I bought them through Golden Rule
13 Travel.

14 Q Why did you contact Golden Rule
15 Travel?

16 A Because for some reason I was not
17 able to buy them online.

18 Q What specific flight path did you
19 purchase tickets for?

20 A Flying from Canada in to Mexico and
21 then on down south in to Central America.

22 Q Why did you choose that route?

23 A Because that's -- that's what was
24 wanted.

25 Q Who told you what route was wanted?

1 TIMOTHY MILLER

2 A Ken would have told me that.

3 Q First off, why were Lisa and
4 Isabella flying out of Canada?

5 A Because, as I understood it, a
6 possible custody transfer, or something down
7 that -- in that realm anyway.

8 Q Just so I'm clear, they were flying
9 out of Canada because of a custody transfer.
10 What do you mean by a custody transfer?

11 A By a possible.

12 Q A possible custody transfer?

13 A Yes.

14 Q What possible custody transfer are
15 you referring to?

16 A Where they would have given custody
17 to Janet Jenkins of Lisa's child.

18 Q So, when you say that's why they
19 are flying out of Canada, what do you mean by
20 that?

21 A Well, it was just as -- as I
22 understood it, it was just -- that was where
23 they were at the moment or were going to be
24 and there was no -- they didn't want to fly
25 out of the U.S.

1 TIMOTHY MILLER

2 Q Who told you that they did not want
3 to fly out of the U.S.?

4 A Ken.

5 Q What information, if any, were you
6 given about flying through the United States?

7 A That they should not stop in the
8 U.S.

9 Q Why not?

10 A Because maybe they could be tracked
11 easier.

12 Q Who told you about that?

13 A Ken would have told me about that.

14 Q Why were you willing to purchase
15 tickets for Lisa Miller and Isabella Miller
16 Jenkins knowing that they were not to fly out
17 of or through the United States?

18 A Well, Lisa at that point had full
19 legal custody. It was not a thing of -- as I
20 understood it, not something that she had any
21 restrictions or anything like that as far as
22 travel. It was more as a possibility.

23 Q Who told you that Lisa had full
24 legal custody and no travel restrictions?

25 A As I recall, it would have been

1 TIMOTHY MILLER

2 Ken.

3 Q Why were Lisa and Isabella going to
4 Nicaragua? Let me rephrase. Why Nicaragua?

5 MR. BOYLE: I'm going to
6 object to the form of the question in
7 terms of if he knows.

8 BY MS. COWLES:

9 Q If you know. If you know, why
10 Nicaragua as opposed to anywhere else?

11 A I would have -- at that point I
12 would have understood that there was no
13 extradition out of Nicaragua.

14 Q Had you talked to anyone about
15 whether or not there was extradition out of
16 Nicaragua?

17 A I would have talked with Ken about
18 that.

19 Q Why was it significant, if you
20 knew, that there was no extradition out of
21 Nicaragua?

22 A Why was it?

23 Q Why was it significant?

24 A Because in the future if the courts
25 did rule against her she could potentially

1 TIMOTHY MILLER

2 stay in Nicaragua.

3 Q Let's talk a little bit about these
4 tickets again. How were -- who was going to
5 pay for the tickets?

6 A As I understood, Lisa was going to
7 pay for those tickets.

8 Q How did you pay for them at the
9 time you purchased them?

10 A With my mother-in-law's credit
11 card.

12 Q How was Lisa then going to pay for
13 the tickets?

14 A At that point I didn't know.

15 Q Why were you willing to use your
16 mother-in-law's credit card to purchase the
17 tickets?

18 A Because I trust.

19 Q When you say you trust, what did
20 you trust?

21 A I trusted that what I was told was
22 going to happen, that she was going to get
23 reimbursed.

24 Q Do you know if your mother-in-law
25 was reimbursed?

1 TIMOTHY MILLER

2 A As I recall, yes, she was.

3 Q What is your mother-in-law's name?

4 A Elaine Cooper.

5 Q By what method was Miss Cooper
6 reimbursed?

7 A I'm not sure.

8 Q Did you ever discuss the
9 reimbursement of Miss Cooper with Ken Miller?

10 A I'm not sure. I'm not sure.

11 Q How -- do you know how your
12 mother-in-law was going to be reimbursed?

13 A No.

14 Q What did you do -- once you had --
15 you said you contacted Golden Rule Travel
16 about these tickets.

17 A Uh-huh.

18 Q Was Golden Rule Travel able to
19 handle the ticket purchase?

20 A Yes.

21 Q What did you do once you finished
22 talking to Golden Rule Travel about the
23 tickets?

24 A I'm not sure.

25 Q What, if anything, did you do to

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TIMOTHY MILLER

make Lisa Miller aware that tickets had been purchased on her behalf?

A I would probably channel it back through Ken.

Q Do you recall if you did that?

A No, I don't.

Q At the time you purchased the tickets how long did you understand, if you did have an understanding, that Lisa Miller was going to spend in Nicaragua?

A I didn't know. I didn't know how long she was staying.

Q How were you able to purchase tickets without that understanding?

A I bought one way tickets.

Q Did you have any discussions with Ken Miller about how long Lisa Miller might stay in Nicaragua?

A Not really. We didn't know where or how long she would stay.

Q What, if anything, did you understand would determine how long she stayed in Nicaragua?

A Probably depending on what happened

1 TIMOTHY MILLER

2 with the court case.

3 Q What result in the court case would
4 have kept Lisa Miller in Nicaragua, as you
5 understood it?

6 A As I understood it, it would have
7 been if she lost custody of her child.

8 Q I'm going to ask you to take a look
9 at what I'm going to mark as Government's
10 Exhibit 2.

11 MS. COWLES: Would you pass a
12 copy to Defense Counsel?

13 MR. GALUSHA: Yes.

14 BY MS. COWLES:

15 Q Government's Exhibit 2 is a
16 two-paged exhibit. It appears to be an e-mail
17 to your e-mail address dated September 29,
18 2009 at 12:05 in the afternoon. The subject
19 line is Residency Requirements. Can you
20 describe what this -- well, first of all, who
21 is this e-mail from?

22 A From Andy Yoder.

23 Q Who is Andy Yoder?

24 A Andy Yoder was someone who was --
25 who would have been going to our church at the

TIMOTHY MILLER

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time.

Q For whom does Andy Yoder work?

A He used to work for Christian Aid Ministries.

Q Looking at the text of the e-mail it appears to relate to Nicaraguan residency. Can you tell us what this e-mail was about?

A I wanted to know what the requirements were for people that came to Nicaragua that would stay longer than the six months or a year.

Q Why on September 22, 2009 were you corresponding with Andy Yoder about residency requirements for people who might come to Nicaragua for more than a year?

A Well, I was wanting to know what the requirements were currently for that because I was thinking ahead if she would -- if Lisa would have to stay in the country, then she would obviously need some other paperwork and that kind of thing.

Q What was Lisa Miller doing on September 22nd of 2009?

A As I recall, she was flying.

1 TIMOTHY MILLER

2 Q That's based on your knowledge of
3 the tickets?

4 A As I recall anyway.

5 Q So, why on September 22, 2009 were
6 you trying to gather this information for Lisa
7 Miller?

8 A I think a lot of that was for
9 myself as far as I wanted to know should we --
10 should she have other paperwork that she
11 doesn't have, or does she have with her what
12 she needs.

13 Q Who, if anyone, had you discussed
14 the need for this information with?

15 A If I were to discuss it, it
16 probably would have been with Ken Miller.

17 Q Do you recall having a discussion
18 with Ken Miller?

19 A Vaguely I would say I did.

20 Q What do you recall, even if
21 vaguely, about that discussion?

22 A That we had a discussion about
23 paperwork, does she have it -- yeah, what does
24 she need. I don't remember even if he told me
25 that she had the requirements or what she had

1 TIMOTHY MILLER

2 and what she didn't have.

3 Q I'm going to ask you to take a look
4 now at what I'm going to mark as Government's
5 Exhibit 3. It's a single-paged e-mail dated
6 September 22, 2009 at 12:58 p.m. originating
7 from your e-mail address. The subject is Re:
8 A Few Lines.

9 Can you tell us first
10 generally who are the recipients of this
11 e-mail?

12 A Most of them are my family.

13 Q Can you read the text of the e-mail
14 for us?

15 A "Sorry, folks, the Lisa subject
16 should currently not be a topic of discussion
17 or e-mailing. It might soon, or it just might
18 be more of a secret. Please advise folks
19 about this. Pray. Definitely pray."

20 Q And it's signed by you?

21 A Yes.

22 Q As of almost 1:00 p.m. on September
23 22, 2009 why did you feel that the Lisa
24 subject should currently not be a topic of
25 discussion or e-mailing?

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TIMOTHY MILLER

A Because we had no clue what the outcome was going to be.

Q What do you mean by that?

A We just didn't know what was going to happen.

Q With her -- with what?

A With the court case.

Q Why would you be concerned about family members discussing or e-mailing Lisa Miller as of September 22, 2009?

A Because there was no need for them to discuss something, and I had -- up to this point I had never discussed anything of the matter with them.

Q Who had you discussed Lisa Miller's coming to Nicaragua as of September 22, 2009? Who had you discussed that with?

A As far as I recall, only Ken Miller, and then -- well then, Tim would have been the connection there.

Q How many times did you talk to Tim Schrock about Lisa Miller at that point in time?

A I'm not sure. I think only once.

1 TIMOTHY MILLER

2 Q What, if anything, in your
3 conversations with Tim Schrock or Ken Miller
4 had given you the impression that this should
5 not be a topic of discussion or e-mailing?

6 A It was just something that if in
7 the future the court case -- the court would
8 rule against Lisa and her child, then at that
9 point there was no need to advertise where she
10 was.

11 Q Why would you not want to advertise
12 where she was?

13 A Just because -- so they wouldn't
14 come looking for her.

15 Q Now, when did Lisa and her daughter
16 Isabella arrive in Nicaragua?

17 A I'm bad with dates. Was it the
18 23rd?

19 Q I believe looking at the documents
20 we talked about September 21st as the first
21 day on which you spoke with Mr. Miller.

22 A Yes. September 22nd. It would
23 have been the 23rd.

24 Q Between the time that you -- that
25 we've discussed the purchase of the tickets on

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TIMOTHY MILLER

September 21st and her arrival on September 23rd were you asked to provide any further assistance to Lisa Miller?

A No. Maybe I'm misunderstanding your question.

Q Before her arrival --

A Okay.

Q After you purchased the tickets but before Lisa Miller arrived what, if anything, were you asked to do on her behalf?

A Well, I was supposed to pick her up.

Q What, if anything, between her -- the purchase of the tickets and the time you picked her up? Let's go on and talk about the arrival and we'll circle back.

You said that you -- you were supposed to pick up Lisa Miller at the airport?

A Yes.

Q Did you do that?

A Yes.

Q How did you know when she would arrive?

1 TIMOTHY MILLER

2 A Well, obviously I had her
3 itinerary.

4 Q How had her trip been that far, if
5 you knew?

6 A Well, she had flown through
7 Salvador. Well and, also, yes, she had had a
8 problem with her ticket with coming down to
9 Nicaragua.

10 Q Tell me about that problem.

11 A As I understand it, the airlines
12 want proof of someone leaving Nicaragua. So,
13 if you do a one way ticket, they want to know
14 how is this person leaving the country.

15 Q How did you become aware of this
16 problem with her one way ticket?

17 A I would have received a call.

18 Q Do you recall who called you about
19 the problem with the ticket?

20 A I don't recall the name, no.

21 Q Was it someone with whom you were
22 familiar?

23 A No.

24 Q How did this person come to contact
25 you?

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TIMOTHY MILLER

A He called me on my cell phone.

Q How did he come to have your cell phone number?

A I don't know. I didn't give it to him.

Q What did he ask you to do?

A He just alerted me to the situation and then I contacted the travel agency and then the arrangements were made through them to clear the situation.

Q What did you do once you had contacted the travel agency and made arrangements to clear out the situation?

A I'm not sure if I needed to do anything.

Q Who, if anyone, did you let know once you had been able to resolve the situation?

A I'm not sure if that same person called me back at that point. Right now I'm not sure. I know we reviewed some of -- some of these things.

Q It's all right. I just want the best of your recollection.

1 TIMOTHY MILLER

2 Do you remember speaking to
3 anyone about making -- clearing up this
4 problem with the ticket?

5 A I don't recall specifics, no.

6 Q You said that you did, in fact,
7 pick up Lisa Miller at the airport. Correct?

8 A Yes.

9 Q Where did you go -- what airport
10 did you pick her up from?

11 A There in Managua.

12 Q Had you previously met Lisa Miller
13 and her daughter?

14 A No.

15 Q How did you recognize them at the
16 airport?

17 A Well, they would have had -- Lisa
18 would have had a covering on.

19 Q What do you mean by a covering?

20 A By a veil or something on her head.

21 Q How would you describe the style of
22 the clothing they were wearing at the time?

23 A It would have been like a Mennonite
24 style of clothing.

25 Q To your knowledge, at that point in

TIMOTHY MILLER

1
2 time was Lisa Miller a Mennonite?

3 A No.

4 Q How did you know to look for
5 someone in Mennonite dress?

6 A Because I was probably told what to
7 look for.

8 Q Do you recall whether or not you
9 were told what to look for?

10 A I can't recall specifically, no,
11 but I just expect that I was told that at that
12 point.

13 Q To your understanding why would
14 Lisa Miller and her daughter be traveling in
15 Mennonite dress in September of 2009?

16 A You said to my knowledge?

17 Q To your knowledge why would they
18 have been traveling in that way?

19 A Probably so that people would think
20 that she was a Mennonite.

21 Q Why, if you know, would she have
22 wanted people to think she was a Mennonite?

23 A I don't know.

24 Q Do you recall discussing with
25 anyone why Lisa Miller and her daughter might

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TIMOTHY MILLER

travel in Mennonite attire?

A I don't recall specifically, no.

Q Where, if you know, had they obtained the Mennonite attire?

A It was my understanding that they left Virginia with those clothes or something similar anyway.

Q How did you come to have that understanding?

A Well, that was -- as I recall, this would have been something that we would have probably discussed later with Lisa.

Q So, you believe that from Lisa you understood that they left Virginia in those clothes?

A Yes. I don't recall at that point that I would have had -- that I would have had that -- you know, in this time I wouldn't have had that info, no.

Q So, at that time you knew that they were wearing Mennonite clothes but you didn't know why?

A Right, or -- yes, I wouldn't have known where they got it or such.

TIMOTHY MILLER

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Q Where did you go once you picked them up from the airport?

A Jinotega.

Q Why Jinotega?

A Because that seemed a convenient place to take them at the point -- at that point.

Q Why not take them -- well, at that point in time were you living in Managua?

A Yes.

Q Why not take them to your home in Managua?

A Well, obviously I bought the tickets. It's very easy to trace where I was. If someone would show up looking for her, she would not be there.

Q Did you discuss the decision to take Lisa and Isabella to Jinotega with anyone?

A If I discussed it with anyone?

Q Yes.

A Yes.

Q Do you recall who you discussed the decision to take them to Jinotega with before

1 TIMOTHY MILLER

2 you went to Jinotega?

3 A With a brother from Jinotega.

4 Q Anyone else?

5 A Not that I can recall.

6 Q Once you picked them up at the
7 airport who, if anyone, did you contact to let
8 know that they had arrived?

9 A I don't know if I did
10 immediately -- well, actually, I know I did
11 not immediately contact anyone.

12 Q At some point in time did you make
13 contact with someone to tell them that
14 Isabella and --

15 A I would have had contact with Ken,
16 yes.

17 Q You mentioned that you had spoken
18 to a brother in Jinotega about taking Lisa and
19 Isabella to Jinotega. Who was that person you
20 spoke to?

21 A Jesse Brubaker.

22 Q Where in Jinotega did you take Lisa
23 and Isabella?

24 A To the town of Jinotega, yes.

25 Q To whose home?

1 TIMOTHY MILLER

2 A Well, I actually just took her to
3 the town.

4 Q Where did you leave her?

5 A Right there with the brother.

6 Q With the brother?

7 A With Jesse.

8 Q Who you said is Jesse Brubaker?

9 A Brubaker, yes.

10 Q What did you do after you dropped
11 Lisa and Isabella with Jesse Brubaker in
12 Jinotega?

13 A I went home.

14 Q When did you next come in contact
15 with Lisa Miller and her daughter?

16 A I'm not exactly sure, but about
17 five or six weeks later.

18 Q What happened five or six weeks
19 later?

20 A I was asked to preach up in the
21 Jinotega congregation, and so that's when I
22 met her again.

23 Q At that point in time five or six
24 weeks after she first went to Jinotega what
25 name was she using?

TIMOTHY MILLER

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A Sarah.

Q What about Isabella, what name was she using?

A Lydia.

Q If you know, why were Lisa and Isabella now using the names Sarah and Lydia?

A Because they were names that they had chosen for themselves.

Q Why would they choose new names for themselves?

A Because they thought they needed them probably.

Q Based on your understanding why would they have thought they needed new names at that point in time?

A Just because in the future if there was a need to go into hiding or something like that, that would be how people would know them as such.

Q At the time five or six weeks later that you saw Lisa Miller in Jinotega how was she dressing?

A She would dress as a Mennonite.

Q At that point in time, to your

TIMOTHY MILLER

1
2 knowledge, had she joined the Mennonite
3 church?

4 A No.

5 Q Now, at some point in time did Lisa
6 Miller return to Managua?

7 A Yes.

8 Q How did that come about?

9 A She came down to visit and, as I
10 recall, she would have liked to come down to
11 that area. Oh, and there was -- there was --
12 she was living in with the Brubakers and they
13 were getting visitors. So, the room that they
14 were going to use was being occupied.

15 Q When she came to Managua where did
16 she stay?

17 A She stayed at a little apartment
18 about three blocks away from us.

19 Q How did she come to have that
20 apartment?

21 A Because I would have helped her
22 rent it. I mean not -- she would have done
23 the renting, but, yes, I would have --

24 Q We've been speaking with Lisa
25 Miller. Where was Isabella during this time?

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TIMOTHY MILLER

A Right there with her.

Q What kind of work, if any, did Lisa Miller engage in in Nicaragua -- in Managua?

A She was teaching school. She would -- she would teach school. She would come over and help with our children in teaching school, and she would help the girl that was with us. They would sort of be together in teaching.

Q Who is the girl who was with you?

A Jessica.

Q Approximately when did she come to be in Managua helping teach your children?

A When did Lisa?

Q Uh-huh.

A About six months or -- sorry. About six weeks -- from my recollection, about six weeks or so after she would have been in Nicaragua.

Q So, she arrived at the end of the September and about six weeks after that she has come to be with your family?

A Yes.

Q How long did she stay in Managua?

TIMOTHY MILLER

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A She stayed there in Managua until April.

Q April of 2010?

A Yes.

Q How would you describe Lisa's relationship with your family during this time from about six weeks after she arrives until April of 2010 when she leaves Managua?

A Well, there were various -- there were various struggles that we had through that, especially looking at -- with Jessica being involved there.

Q Who is Jessica?

A Jessica was someone who was there living with us -- a girl who was living with us, and there were different times when there were things back and forth between Lisa and Jessica. Jessica would tell Lisa something about us and obviously Lisa believed it, and there were things that continued going around there and it created some -- it created some stress.

Q Now, while Lisa was with you how much time was she spending every day in your

TIMOTHY MILLER

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2 household?

3 A She would usually come in the
4 morning, about nine o'clock. This wasn't
5 every day, but she would come around nine
6 o'clock in the morning and then be there
7 through early afternoon some time.

8 Q During the time that Lisa spent
9 with you what, if anything, did you know about
10 the status of her family court case in the
11 United States?

12 A Well, at one point the custody was
13 transferred.

14 Q How were you getting information
15 about the case at that point in time?

16 A Through the internet.

17 Q Who, if anyone, were you discussing
18 Lisa's case with during that period of time?

19 A With her.

20 Q Now, at some point during this
21 period that Lisa stayed with your family did
22 you come to delete a number of e-mails that
23 you had exchanged?

24 A Yes, I did.

25 Q Tell me a little bit about that.

1 TIMOTHY MILLER

2 A Well, obviously I had bought the
3 tickets, and even though I did not believe
4 that it was a crime that I had committed or
5 anything like that, but it was still -- I
6 didn't -- I didn't want anybody just to say,
7 okay, here she is.

8 Q So, if I understand, you're
9 saying -- I asked you to explain what happened
10 with deleting these e-mails and you said that
11 you didn't want anyone to be able to say here
12 she is. So, what was the reason for deleting
13 the e-mails?

14 A So they wouldn't be tracked.

15 Q Why were you concerned at that
16 point in time while Lisa was staying in
17 Managua that someone would be looking to
18 e-mails to track Lisa?

19 A Well, I didn't know that they
20 would, but if they would, they wouldn't be
21 there.

22 Q Did you discuss deleting the
23 e-mails with anyone?

24 A Not that I recall.

25 Q Now, after this initial period we

TIMOTHY MILLER

1
2 discussed, September 21st when you got the
3 first phone call to September 23rd, 2009 when
4 Lisa Miller arrived in Nicaragua, did you
5 remain in touch with Ken Miller?

6 A Periodically.

7 Q How did you stay in touch with him?

8 A Sometimes through the phone, but
9 e-mail.

10 Q To your knowledge, did Lisa Miller
11 remain in touch with Ken Miller?

12 A That I know of or that I can
13 recall, she might have talked to him one time.

14 Q How do you come to have that
15 information?

16 A As I recall, he would have called
17 and I would have given her the phone. That's
18 my recollection. It's very -- it's not clear,
19 but that would be my recollection of it.

20 Q Now, you mentioned that you also
21 stayed in touch with Ken Miller, I believe you
22 said, by e-mail?

23 A Yes.

24 Q I'm going to hand you three
25 messages, what I'll mark as Exhibits 4, 5 and

1 TIMOTHY MILLER

2 6. Government's Exhibit 4 is a message that
3 says from Ken Miller to your e-mail address.
4 The top line is September 25, 2009. It
5 responds to a message of September 24, 2009.

6 Exhibit 5 is a subject line
7 picture from your e-mail to Ken Miller at
8 pcf.net with a picture of your family, and
9 then Exhibit 6 is from Ken Miller at pcf.net
10 to your e-mail and starts "Here are the
11 Millers". If you could, take a look at those
12 briefly.

13 MR. BOYLE: Just for my
14 purposes since my copies were not
15 stapled, the first one is three pages?

16 MS. COWLES: I'm sorry. The
17 first one is three pages.

18 MR. BOYLE: The second one is
19 one page?

20 MS. COWLES: Is one page with
21 the picture with the hearts.

22 MR. BOYLE: And the third one
23 is likewise three pages?

24 MS. COWLES: Three pages with
25 two pictures. The last two pages are

1 TIMOTHY MILLER

2 pictures.

3 BY MS. COWLES:

4 Q Starting first with the physical
5 e-mail that's been identified as Government's
6 Exhibit 4, if you look to your message in the
7 middle, can you explain what this is
8 generally?

9 A This family -- just family news.

10 Q How often did you send out family
11 news?

12 A Periodically.

13 Q To whom did you send it?

14 A Friends and family.

15 Q A large list?

16 A Fairly.

17 Q You mention in your e-mail "I will
18 also add you to our list". What list is that
19 you're talking about?

20 A Our e-mail list.

21 Q Then looking to Exhibit 5, what is
22 Exhibit 5?

23 A This is a photo of our family.

24 Q Then Exhibit 6, will you look at
25 that briefly and tell me what that is?

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TIMOTHY MILLER

A It's an e-mail from Ken with pictures of his family.

Q Now, during this period of these three e-mails starting shortly after the events we've been discussing, September 24, 2009 and going into October of 2009, how would you describe your relationship with Ken Miller?

A Someone I have gotten to know via e-mail and phone calls.

Q How would you characterize him at that point in time?

A A brother of Christ.

Q What kind of things were you discussing with Ken Miller during your conversations?

A I don't recall any specific conversations that we would have had.

Q What, if any, contact did the two of you have regarding Lisa Miller during this period once she had arrived in Nicaragua while she was staying in Managua near your family?

A I can't recall any specific -- something that was said.

1 TIMOTHY MILLER

2 Q Now, you mentioned that Lisa Miller
3 stayed with your family until approximately
4 when?

5 A April of 2000 -- wait a minute.
6 April of 2010, yes.

7 Q Why did Lisa Miller leave at that
8 point in time?

9 A Because with this thing with
10 Jessica and such it had -- it had definitely
11 created -- we had gotten off focus of our
12 work.

13 Q What work do you mean by that?

14 A Church work.

15 Q What plans -- well, let me ask you
16 first, where did Lisa Miller go when she
17 leaves Managua?

18 A To my understanding she went to
19 Jinotega.

20 Q How were you involved in the plans
21 for her departure?

22 A As far as all I recall was, I knew
23 she was going up there, and I would have
24 received a phone call either the day -- I
25 think it was the same day she was -- she went

TIMOTHY MILLER

1
2 to Jinotega.

3 Q Who else was involved in making
4 plans for Lisa Miller's departure from
5 Managua, to your knowledge?

6 A Managua? It would have been -- I'm
7 not exactly sure. I would have talked with
8 Brother Jesse.

9 Q That's Jesse Brubaker?

10 A Jesse Brubaker, yes.

11 Q Did you speak with anyone else
12 about Lisa Miller's planned departure?

13 A We would have discussed this with
14 Tim at least months back.

15 Q When you say Tim, who do you mean?

16 A Tim Schrock.

17 Q When you say you would have
18 discussed it months back, why would you have
19 discussed it months back?

20 A Simply because he was trying to get
21 us to focus on what we really needed to focus
22 there.

23 Q On the church work in Managua?

24 A On the church work in Managua,
25 yes. Because we had reached out to Jessica

1 TIMOTHY MILLER

2 more as -- in order to help her.

3 Q What impact was Lisa's presence
4 having on that?

5 A Well, Jessica would go to Lisa and
6 things would come around and that created a
7 lot of stress.

8 Q What plans were you aware of being
9 made for Lisa Miller's new life in Jinotega?

10 A All I can recall was that she was
11 going to Jinotega.

12 Q After Lisa Miller -- well, did
13 Lisa, in fact, go to Jinotega?

14 A Yes, she did.

15 Q And that was approximately when?

16 A As I recall, Lisa went on the 27th
17 of April.

18 Q 2010?

19 A 2010.

20 Q Did you remain in contact with Lisa
21 after she left?

22 A No, except for one little brief
23 contact.

24 Q What about Ken Miller, did you
25 remain in contact with Ken Miller after the

1 TIMOTHY MILLER
2 end of April of 2010 when Lisa Miller left for
3 Jinotega?

4 A Yes. I would have received their
5 e-mails and they would have received ours.

6 Q I want to take a look at a few of
7 those e-mails with you.

8 THE WITNESS: Break.

9 MS. BELL: Do you need a quick
10 break?

11 THE WITNESS: Yes, if that's
12 okay.

13 MS. BELL: Is it all right if
14 we take about a ten-minute break?

15 MR. BOYLE: Sure.

16 THE VIDEOTAPE OPERATOR: The
17 time is now 2:53. We are going off the
18 video record.

19 - - -

20 (Whereupon a break was taken
21 at this time.)

22 - - -

23 THE VIDEOTAPE OPERATOR: The
24 time is now 3:02. We're back on the
25 video record.

1 TIMOTHY MILLER

2 - - -

3 BY MS. COWLES:

4 Q Mr. Miller, when we took a break I
5 had asked you if you had remained in contact
6 with Ken Miller after Lisa Miller left for
7 Jinotega in April of 2010 and I believe you
8 indicated that you had stayed in touch with
9 him exchanging e-mails.

10 A E-mails and such.

11 Q I want to take a look at a few of
12 those e-mails. I'm going to hand you what I
13 will mark for identification as Government's
14 Exhibit 7. Government's Exhibit 7 is a four-
15 paged e-mail titled Irish News and signed Ken,
16 Linda and family. It's from Ken Miller
17 kingdomseeker1@gmail.com to a number of
18 recipients including your e-mail address. Can
19 you tell us just generally what Exhibit 7 is?

20 A Well, it looks like just a news --
21 a newsletter from Ken or from the family.

22 Q How often did you receive this type
23 of newsletter from Ken or his family?

24 A Periodically. I'm not sure exactly
25 how often.

1 TIMOTHY MILLER

2 Q In addition to the kind of general
3 e-mail we see in Government's Exhibit 7, did
4 you have more personal correspondence with Ken
5 Miller?

6 A I think I would have.

7 Q I'm going to ask you to take a look
8 at a few messages. I'm going to start by
9 handing you what I will mark as Government's
10 Exhibit 8 for identification. The date on the
11 top e-mail is May 11, 2010. It includes a
12 chain starting on May 5th of 2010 in which you
13 wrote to Ken Miller. If you could, just take
14 a moment and review those e-mails.

15 A (Witness complies with request.)

16 Q Can you describe the exchange
17 that's happening in this series of e-mails on
18 Government's Exhibit 8?

19 A It looks like I was contacting Andy
20 about bringing some money down.

21 Q Okay. When you say Andy, who do
22 you mean?

23 A Andy Yoder.

24 Q You said it's about bringing some
25 money down. What money are you referring to?

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TIMOTHY MILLER

A Obviously there was -- there were \$500 here.

Q In the text of the e-mail it refers to coffee. At any point in time leading up to this exchange of e-mails did you sell coffee to Ken Miller?

A Not that I can recall.

Q Were you involved in selling coffee?

A I have, yes.

Q And how does that come about?

A Well, I would -- sometimes I would buy from -- I would buy from Andy.

Q From Andy Yoder?

A From Andy Yoder, yes.

Q What was the price of the coffee from Andy Yoder?

A \$5 a pound is what it is.

Q So, how much coffee would \$500 represent approximately?

A About a hundred.

Q Do you recall being involved in the sale of approximately a hundred pounds of coffee to Ken Miller?

1 TIMOTHY MILLER

2 A No, I don't.

3 Q What do you understand this e-mail
4 exchange to be about?

5 A I'm not sure. I've been puzzling
6 about it.

7 Q What, if anything, do you recall
8 about receiving money from Ken Miller in May
9 of 2010?

10 A I don't recall that. I recall some
11 of this.

12 Q When you say this, what are you
13 indicating?

14 A This of having gotten a hold of
15 Andy. The rest of it I don't remember.

16 Q When you say you recall some of the
17 getting a hold of Andy, what do you recall
18 about getting a hold of Andy?

19 A To get him to deposit a check or
20 bring the cash to Nicaragua.

21 Q Do you remember if that happened?

22 A As I recall, it did. As far as how
23 it happened, I'm not sure.

24 Q Why would you have involved Andy
25 Yoder in that exchange?

1 TIMOTHY MILLER

2 A Because that was someone who was up
3 in the United States at the moment.

4 Q Why would you need someone in the
5 United States to help with this kind of
6 transaction?

7 A What happens down there is, if you
8 want to -- for instance, if you have a U.S.
9 check, if you would take that check to a bank,
10 it takes like a month and a half for that
11 check to clear. So, if there was money that
12 needed to go to Nicaragua, that would have
13 obviously had -- it should have gone as cash;
14 not as check.

15 Q Do you recall receiving cash from
16 this exchange that's being discussed in
17 Government's Exhibit 8?

18 A I don't recall that, no.

19 Q How do you explain the discussion
20 of the sale of coffee in Government's Exhibit
21 8?

22 A I'm not sure.

23 Q What, if any, connection does
24 Government's Exhibit 8 have to Lisa Miller?

25 A I don't know.

1 TIMOTHY MILLER

2 Q Were you ever involved in providing
3 funds to Lisa Miller?

4 A No.

5 Q To your knowledge, was Ken Miller
6 involved in providing funds to Lisa Miller?

7 A Not as I remember.

8 Q I'm going to ask you to take a look
9 at another exhibit. I will mark it
10 Government's Exhibit 9. This is a one-paged
11 message from you to Ken Miller dated Saturday,
12 June 26th of 2010. The subject line says "I
13 would like" and the text says "to talk to you
14 sometime. Call me if you can".

15 As of June of 2010 how often
16 did you speak to Ken Miller by phone?

17 A I don't know. I might have
18 periodically. I'm just not sure.

19 Q Why would you need to talk to Ken
20 Miller by phone?

21 A I don't know. I didn't specify it.

22 Q Do you have any recollection as to
23 what this e-mail relates to?

24 A No.

25 Q Let's look then at what I'm going

1 TIMOTHY MILLER

2 to mark as Government's Exhibit 10 dated July
3 27th of 2010. There are two e-mails on the
4 one-paged exhibit. The top is from you to Ken
5 Miller beginning with a greeting "Well, hello,
6 Brother". The bottom says "Ken Miller wrote".

7 Taking a look at that message,
8 the message from Ken Miller says "no news is
9 good news I'm assuming" and in the second line
10 of your message you say "and, yes, no news
11 does seem to be good news".

12 To what were you referring in
13 this exchange?

14 A Probably about Lisa.

15 Q Why do you say it's probably about
16 Lisa?

17 A What else would it be referring
18 to? I don't know.

19 Q Why would you use something like no
20 news is good news to refer to Lisa Miller?

21 A I'm not sure. I guess that would
22 be for him to answer.

23 Q In your response you say "yes, no
24 news does seem to be goods news". If you
25 understood this to be an inquiry about Lisa

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TIMOTHY MILLER

Miller, why not simply say what you know about Lisa Miller?

A It could have been, well, she's okay or -- as far as I know.

Q As of July of 2010 why wouldn't you just say that in an e-mail?

A Well, at that point it had been a few months since I would have even had any contact with her.

Q Why would you still be concerned about secrecy in discussing Lisa Miller in a few months after you had any contact with her?

A There's no sense in discussing her directly.

Q Why do you say that?

A Well, if someone would look at the e-mail, you know, they wouldn't immediately say, oh, this is about Lisa Miller.

Q Why would you be concerned that someone would be looking at your e-mails to gain information about Lisa Miller in July of 2010?

A I wasn't really that concerned. Obviously if I would have been, those e-mails

1 TIMOTHY MILLER

2 wouldn't have been there.

3 Q And yet it does appear you took an
4 effort not to use the name Lisa Miller in this
5 e-mail.

6 A Yes. To a certain degree, yes.

7 Q What -- at that point in time what
8 concerns did you have about people being aware
9 of your involvement with Lisa Miller?

10 A I'm not sure if I was that
11 concerned about it. If anyone would have
12 come -- all those months that Lisa was there
13 with us, all of our neighbors saw her.
14 Anybody who came around there saw her. Was it
15 a secret? No. If you would have gone there
16 looking for her, you would have found her.
17 It's that simple.

18 Q Now, during those months that she
19 was living with you what names did you use to
20 refer to Lisa and Isabella?

21 A Well, we would have called them
22 Sarah and Lydia.

23 Q And how would Lisa and Isabella
24 have been dressed during the period of time
25 that they lived with you?

1 TIMOTHY MILLER

2 A They would have used their clothes,
3 the Mennonite clothes.

4 Q I want to look at another exhibit
5 that I'm going to mark as Government's Exhibit
6 11. It's a two-paged exhibit. The first page
7 is an e-mail from Ken Miller
8 kingdomseeker1@gmail.com to your e-mail
9 address dated November 10th of 2010. The
10 second page is stamped Draft and provides a
11 proposed translation of that e-mail message.

12 Would you take a look at that
13 for me for a moment?

14 A (Witness complies with request.)

15 Q You've had an opportunity to see
16 this e-mail previously. Correct?

17 A Yes.

18 Q Now, this e-mail on November 10,
19 2010 has a portion that appears in another
20 language. What language do you understand
21 that to be?

22 A Pennsylvania German or Dutch.

23 Q And had you regularly used
24 Pennsylvania German or Pennsylvania Dutch in
25 your correspondence with Ken Miller?

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TIMOTHY MILLER

A I wouldn't have, no.

Q Why would you not have?

A Because I can't really read it -- sorry. I can't really write it. I can read it halfway-ish.

Q How is your speech?

A Oh, I can speak it well, but it's not a written language for me.

Q Had Ken Miller previously used Pennsylvania Dutch to contact you?

A I don't know. Not to my recollection.

Q Do you recall receiving this e-mail?

A Did I receive this e-mail? Yes.

Q Looking at -- well, what did you understand the portion in Pennsylvania Dutch to mean?

A He was wondering if she was acting Ecuador like lezgetreal.com was saying she was.

Q When you say she, you're referring to Lisa Miller?

A Yes.

1 TIMOTHY MILLER

2 Q As of November 10, 2010 did you
3 know whether or not Lisa Miller was in
4 Ecuador?

5 A I had a good idea she wasn't there.

6 Q Where did you believe that she was?

7 A I would have thought she was in
8 Jinotega or somewhere thereabouts.

9 Q Did you respond to this message
10 from Ken Miller, to your recollection?

11 A I did. I don't really recall
12 exactly what I would have written her --
13 written him, but, yes, I would have.

14 Q Do you recall whether or not you
15 discussed Lisa Miller's location with Ken
16 Miller after receiving this e-mail on November
17 10th of 2010?

18 A You're speaking of in some other
19 form or --

20 Q Either by phone or by e-mail or any
21 any other communication.

22 A No, not that I recall.

23 Q The message -- well, what was your
24 understanding of why -- let me change that
25 question.

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TIMOTHY MILLER

When you received this, what was your impression of why Pennsylvania Dutch is used in this e-mail?

A Simply because he was probably trying to hide what he was talking about.

Q Had you and Ken Miller as of November 10, 2010 discussed the need to not speak publicly about Lisa Miller?

A Not that I can recall.

Q Had you ever discussed whether or not it would be all right to talk to people about how you had been involved with Lisa Miller?

A I don't recall that it ever was a topic of discussion, no.

Q There's a mention in the e-mails of something called lifesitenews. Had you ever corresponded -- had you ever had correspondence facilitated by lifesitenews?

A Not that I recall.

Q The e-mail also asks you if you can get a hold of Lisa Miller. Were you able to get a hold of Lisa Miller in November 10th -- on November 10th of 2010?

1 TIMOTHY MILLER

2 A I didn't.

3 Q Do you know if you were able to?

4 A Well, I didn't even try.

5 Q How would you have gone about
6 trying to reach her at that point in time?

7 A I was probably trying to contact
8 her through a brother in Jinotega.

9 Q What conversations, if any, had you
10 had with Ken Miller about trying to contact
11 Lisa Miller as of November 10, 2010?

12 A I don't recall. I don't recall.
13 You know, there might have been -- this was
14 one of them that I didn't recall until it was
15 brought to my attention.

16 Q Okay.

17 A I'm not sure that I would recall
18 now.

19 Q Mr. Miller, you were originally
20 charged with aiding and abetting international
21 parental kidnapping by Lisa Miller. Correct?
22 You were charged with aiding and abetting Lisa
23 Miller in an international parental
24 kidnapping. Correct?

25 A Yes.

1 TIMOTHY MILLER

2 Q How was your case resolved?

3 A They told me -- they -- it was --
4 the charges were dropped.

5 Q What was your understanding of your
6 agreement with the government leading to the
7 dropping of those charges?

8 A That I would testify if the need so
9 arose.

10 MS. COWLES: Those are all the
11 questions I have. Do you have any?

12 - - -

13 EXAMINATION

14 - - -

15 BY MR. BOYLE:

16 Q Mr. Miller, I just have a few
17 questions, if you could give me a second.
18 First of all, we've talked throughout this
19 deposition about you, about Ken Miller and
20 about Lisa Miller. So, all three of you have
21 the same name: Miller. Is there any family
22 relationship between the three of you?

23 A No.

24 Q Before Lisa Miller arrived in
25 Nicaragua had you ever spoken to Lisa Miller?

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TIMOTHY MILLER

A No.

Q Had you ever talked to her?

A No.

Q Ken Miller, before you received that call in September of 2009 had you ever met Ken Miller?

A No.

Q Prior to today had you ever met Ken Miller in person?

A No.

Q Okay. This is the first time --

A This is the first time we met. Right? I think so.

Q So, up to this time it's all been telephone and e-mail?

A Yes.

Q And there's no family relationship between the two of you?

A Not that I understand.

Q Okay. Now, you've met and spent some time with Lisa Miller. Is that correct?

A She would have been there, yes.

Q And she's an adult woman?

A Yes.

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TIMOTHY MILLER

Q With her own child?

A Yes.

Q Now, when she was in Nicaragua was she free to come and go as she wanted?

A Yes.

Q Was she ever under your control?

A No.

Q Did you ever give her orders or anything of that nature?

A No.

Q Okay. So, she could have gone wherever she wanted and done whatever she wanted. Is that correct?

A Right. Correct.

Q Now, when Lisa Miller came to Nicaragua did you understand that any order had been entered transferring custody to anyone other than Lisa Miller?

A Excuse me. What was the question?

Q Before Lisa Miller came to Nicaragua did you understand there was any court orders or anything that had transferred custody of her daughter?

A No.

1 TIMOTHY MILLER

2 Q So, you believe she was the
3 guardian when she got to Nicaragua?

4 A Definitely. Definitely.

5 Q And you believe she had ever legal
6 right to come to Nicaragua with her daughter?

7 A Right.

8 Q Okay. So, in assisting her did you
9 think you were doing anything wrong?

10 A No.

11 Q Okay. And did you talk about that
12 with Ken Miller at all, if you recall?

13 A Yes. Yeah. I mean that was one
14 thing I do recall that we did talk about that,
15 that there's nothing -- there's nothing wrong
16 in this. She's the legal guardian. Obviously
17 she wouldn't have been, but she was going --
18 she was traveling under her own name.
19 Everything was legal and aboveboard in that
20 respect.

21 Q And that was your understanding?

22 A Yes.

23 Q And that was Ken's understanding as
24 well?

25 A As I recall, yes.

1 TIMOTHY MILLER

2 Q Okay. Now, you -- the Assistant
3 U.S. Attorney talked about the agreement you
4 made with the government?

5 A Uh-huh.

6 Q As I understand the agreement, the
7 only term of that agreement really is if you
8 testify truthfully. Is that your
9 understanding?

10 A That's right.

11 Q Okay. And in exchange for that,
12 the charges against you and the District of
13 Vermont were dropped?

14 A Were dropped, yes.

15 Q Or dismissed?

16 A Yes.

17 Q Prior to that, the charges being
18 dropped, do you recall meeting with
19 representatives of the Government on October
20 5th of this year? I believe it would have
21 been in Philadelphia.

22 A Okay. I had one meeting, yes.

23 Q Did you tell the Government at that
24 time that you thought everything that you had
25 done was legal?

1 TIMOTHY MILLER

2 A As I recall, I would have.

3 MR. BOYLE: If I could have
4 just one second.

5 THE VIDEOTAPE OPERATOR: The
6 time is now 3:25. We are going off the
7 video record.

8 - - -

9 (Whereupon a break was taken
10 at this time.)

11 - - -

12 THE VIDEOTAPE OPERATOR: The
13 time is now 3:26. We're back on the
14 video record.

15 - - -

16 MR. BOYLE: I have no more
17 questions. Thank you, Mr. Miller.

18 - - -

19 EXAMINATION

20 - - -

21 BY MS. COWLES:

22 Q Mr. Miller, just one brief area of
23 follow-up. You said that you spoke with Ken
24 Miller about why you weren't doing anything
25 wrong in assisting Lisa Miller to come to

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TIMOTHY MILLER

Nicaragua. Correct?

A I think so, yes.

Q I believe you told Mr. Boyle that you discussed the fact that she was the legal guardian and she was traveling under her own name?

A Uh-huh.

Q When you -- did you have any discussions with Ken Miller about Lisa Miller's partner's rights to Isabella?

A Not that I recall.

Q What, if any, conversations did you have about rights to visitation that Miss Jenkins might have had at the time that Lisa Miller came to Nicaragua?

A I don't recall any of those.

Q I believe if you look back to Government Exhibit 1 you attached a fact sheet related to Lisa Miller and Isabella Miller Jenkins. If we look into that fact sheet it describes the matter between the two women looking at the top of the second page as a child custody/visitation legal dispute.

Were you aware based on this

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TIMOTHY MILLER

information that there were both custody and visitation rights at issue in this dispute?

A No, because I don't -- I didn't understand the law, but it was -- I didn't understand the U.S. laws, how they work or anything like that.

Q Do you recall discussing the child custody and visitation issue with Ken Miller?

A Not that I recall.

Q I believe when you testified previously you mentioned that the reason that you understood Lisa Miller wanted to come to Nicaragua was so that her child would not -- let me ask you.

What did you understand the reason was that Lisa Miller wanted to come to Nicaragua?

A That if there was -- with a possible custody transfer.

Q So --

THE VIDEOTAPE OPERATOR:

Excuse me, Counsel. I apologize. The time is now 3:28. This concludes videotape number one.

1 TIMOTHY MILLER

2 - - -

3 (Whereupon a break was taken
4 at this time.)

5 - - -

6 THE VIDEOTAPE OPERATOR: The
7 time is now 3:30. This begins videotape
8 number two of the videotape deposition.
9 You may proceed.

10 MS. COWLES: Thank you.

11 BY MS. COWLES:

12 Q Mr. Miller, in the e-mail that you
13 sent, Government's Exhibit 1, you forwarded
14 information related to an ongoing legal
15 dispute. Correct?

16 A Yes.

17 Q So, when -- in your discussions
18 with Ken Miller did you discuss the fact that
19 Lisa Miller was involved in an ongoing dispute
20 with her partner about this child?

21 A Well, we talked about -- we talked
22 about the case as such. That doesn't mean I
23 understood the implications.

24 Q But you understood there was a
25 case?

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A There was obviously a case, yes, but as far as the implications, no, simply because the Bible is very clear. God -- God instituted marriage as a husband and a wife, and if someone has a child by other means, obviously it's not anybody else's child. I mean that would have been my understanding.

Q And you understood that in helping Lisa Miller come to Nicaragua you were helping to keep the child away from the other woman who wanted access to her?

MR. BOYLE: I'm going to object to the form. It's leading.

MS. COWLES: Let me rephrase the question.

BY MS. COWLES:

Q How did your -- what impact did you understand Lisa Miller's travel to Nicaragua to have on the relationship of the child to this other woman, if any?

A As I would have understood it at that time, she had had little or very little contact with her anyway. She had lived with her mother. So, to me it wasn't really --

TIMOTHY MILLER

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2 that I would have known, it wasn't really an
3 issue.

4 Q What impact would you have
5 understood the trip to Nicaragua to have had,
6 though?

7 A Well, if there was a custody
8 transfer? Is that what you're talking about?

9 Q Well, I'm starting with the
10 immediate moment. Before any additional
11 orders what affect would coming to Nicaragua
12 have on the relationship, as you understood
13 it, of the child with the other woman?

14 A I guess I can't really recall that
15 I thought about that as such.

16 Q How did you think about it?

17 A I just more thought of this whole
18 thing, well, here's someone who needs help
19 coming to Nicaragua, and I helped.

20 Q Why did she need help coming to
21 Nicaragua?

22 A Obviously she needed to be picked
23 up by someone. She didn't know anyone in
24 Nicaragua.

25 Q Why did she need to come to

TIMOTHY MILLER

1
2 Nicaragua at all, as you understood it?

3 A Because of a -- because of a legal
4 dispute.

5 Q By coming to Nicaragua what impact
6 did you understand Lisa Miller could have on
7 that legal dispute?

8 A I don't know if I thought down
9 those lines.

10 Q You understood there was a court
11 case?

12 A Right.

13 Q So, what affect on the court case
14 did you understand the move to Nicaragua would
15 have?

16 A If the custody would have been
17 transferred in the future, well then she
18 wouldn't have been in the U.S. for that
19 transfer.

20 Q So, as far as the other woman, Miss
21 Jenkins' ability to see the child, what affect
22 did you understand this trip to Nicaragua
23 would have?

24 A I guess -- like I said, I never
25 thought -- that I can recall, I never thought

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2 down those lines as far as what affect it
3 would have. This was her child. This is
4 Lisa's child. She can do with her child
5 whatever she wants to.

6 Q But you and Ken Miller discussed
7 the need to insure that people couldn't find
8 Lisa Miller. Correct?

9 A I wouldn't have put it that way.

10 Q How would you put it?

11 A I would have said that she needed
12 to come to Nicaragua for that possibility. We
13 didn't know where she was going. We had --
14 that I recall, there was nothing -- there was
15 no plan as such.

16 Q Was Lisa Miller a planner?

17 A She was.

18 Q How did you -- based on how you
19 came to know Lisa Miller, did you find it
20 surprising that there was no plan for her life
21 in Nicaragua?

22 A Ask me the question again.

23 Q Based on what you came to know of
24 Lisa Miller, did you find it surprising that
25 there was no plan for her life in Nicaragua?

1 TIMOTHY MILLER

2 A I guess I didn't think -- I mean I
3 didn't think about that, no.

4 Q Returning simply to this court
5 case, what, if any, discussion did you and Ken
6 Miller have about who would be looking for
7 Lisa Miller and Isabella or who might be
8 looking for Lisa Miller and Isabella if a
9 court order came changing custody?

10 A Obviously somebody related to the
11 court.

12 MS. COWLES: I have nothing
13 further.

14 MR. BOYLE: If I could just
15 follow-up with a few questions.

16 - - -

17 EXAMINATION

18 - - -

19 BY MR. BOYLES:

20 Q Just so I understand what I think
21 you're saying, you're saying when Lisa Miller
22 came to Nicaragua you thought she had ever
23 right to have her daughter in Nicaragua. Is
24 that correct?

25 A I was what?

1 TIMOTHY MILLER

2 Q You thought Lisa Miller had ever
3 right to have her daughter in Nicaragua?

4 A Yes.

5 Q Okay. So, what you were worried
6 about was a potential change in custody?

7 A Right.

8 Q But that change had not occurred
9 yet?

10 A That's right.

11 Q And you didn't at that point in
12 time know if it would ever occur, did you?

13 A That's right.

14 Q And --

15 MR. BOYLE: I don't think I
16 have any further questions. Thanks.

17 - - -

18 EXAMINATION

19 - - -

20 BY MS. COWLES:

21 Q Let me ask you one more question.

22 You just told Defense Counsel
23 that you weren't sure if the change in custody
24 would ever occur. Correct?

25 A Right.

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Q But I believe when we looked at the exhibit related to residency requirements you did collect information about how Lisa Miller might be able to remain in Nicaragua.

Correct?

A But that was also just because of the possibility.

Q Just in case?

A There was no -- I mean I didn't know. I had no clue.

MS. COWLES: All right. I have nothing further.

THE VIDEOTAPE OPERATOR: The time is now 3:38. This concludes the videotaped deposition.

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(Witness excused.)

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TIMOTHY MILLER
C E R T I F I C A T E
COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF PHILADELPHIA:

I, Donna Bucci Stein, a Notary Public within and for the County and State aforesaid, do hereby certify that the foregoing deposition of Timothy Miller was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.

WITNESS my hand and official seal
this 1st day of January 2012.

Donna Bucci Stein

Donna Bucci Stein, RPR
Notary Public

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008948

[talked - understanding]

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From: Philip Zodhates
Sent: Friday, November 13, 2009 2:28 PM
To: 'John Collmus'
Subject: RE: bag for Nicaragua

Actually Josiah decided to skip wrestling today for the first time this week, and William is picking him up at 2:40. So I won't be coming. We'll talk sometime when you're back.

Have a great trip to Nicaragua. And thanks again for taking those bags.

Hope your wife especially enjoys her first trip there.

philip

From: John Collmus [<mailto:john.collmus@covenantsschool.org>]
Sent: Friday, November 13, 2009 11:33 AM
To: Philip Zodhates
Subject: RE: bag for Nicaragua

I will be here until about 4. You may not be coming until 5 if he has wrestling. Let me know when you are coming

John H. Collmus

From: Philip Zodhates [<mailto:philipz@responseunlimited.com>]
Sent: Friday, November 13, 2009 9:51 AM
To: John Collmus
Subject: RE: bag for Nicaragua
Importance: High

Dear John:

Josiah brought the bags with him to school with him this morning. I got them about 10:45 last night.

Yes they will probably examine the bags when you check in, but that is not a problem. I am not sure why they taped them (I did not pack them, one of the elders of the local church did here).

Timo Miller will meet you at the airport and hold up a sign with your name. He is a pastor of an Amish-Mennonite church in Managua who is with Christian Aid Ministries (Ohio). His home phone number is 2251-3557 and his cell number is 8634-2154. The suitcases are for a lady that works with them there in Managua named Sarah. I don't see why there should be any problem in him being there on time as there shouldn't be any traffic on a Sunday night.

Thank you for taking these. Sarah will greatly appreciate it, I am sure.

I trust you'll have a wonderful time and accomplish your purpose. Kathie told me a little bit about what you are doing. I'd like to chat with you for a minute face to face before you leave today (we have to pick up Josiah from school this afternoon). What time will that be?

Kathie also said to send you Carl and Cathy Most's contact information (she spoke to you about them some time before). It is attached and also copied here:



In His service,

Philip

From: John Collmus [<mailto:jcollmus@covenantschool.org>]
Sent: Friday, November 13, 2009 9:04 AM
To: Philip Zodhiates
Subject: RE: bag for Nicaragua

I have 2 in my room. Do you think they may open them up, break the tape, or is that not a problem. Who will my contact be?

John H. Collmus

From: Philip Zodhiates [<mailto:philipz@responseunlimited.com>]
Sent: Thursday, November 12, 2009 9:27 PM
To: John Collmus
Subject: bag for Nicaragua
Importance: High

John:

The bags for Nicaragua have not arrived yet, but one is on its way to our home as I write. I will send it with Josiah in the morning. If I find out the other is ready I will have to go to Lynchburg to pick it up tomorrow or have someone else get it Saturday. Would that work?

Can you give me your home & cell numbers just in case. I will be in Pennsylvania Saturday but could arrange for you to get it if it materializes.

Also, can you email me an itinerary so I can forward it to Nicaragua and have someone meet you as you come through customs in Managua?

Thanks so much for doing this. They are just personal belongings of someone who recently moved to Managua doing missions work and a few things they can't buy there readily like peanut butter. So it is nothing you need to declare on the customs forms.

Philip
540-943-6721 office
540-943-5779 home
540-649-1999 cell

From: [Timo & Joanna](#)
To: [Philip Zodhiates](#)
Subject: Re: Flight itinerary for John Collmus
Date: Friday, November 13, 2009 11:08:14 AM

OK. Thank you very much. If for some reason I couldn't be there I will definitely have someone there.

Blessings in Christ,

Timo

Philip Zodhiates wrote:

Gentlemen:

Here is the itinerary for John Collmus and his wife Jacquelyn. I will tell him Timo will hold up a sign for him upon his exit from customs so he can give you the suitcases for Sarah. I will also give him your phone number in case there are any problems. They are coming on Continental C01774 from Houston arriving at 9:00 pm

Please inform Sarah as of Monday they had not yet been able to retrieve the things from the apartment but understanding is they are still working on it.

In His service,

Philip

-----Original Message-----

From: John Collmus [<mailto:jcollmus@covenantschool.org>]
Sent: Friday, November 13, 2009 9:04 AM
To: Philip Zodhiates
Subject: FW: Etkk receipts

John H. Collmus

-----Original Message-----

From: wwtravel@cox.net [<mailto:wwtravel@cox.net>]
Sent: Wednesday, October 14, 2009 9:33 AM
To: John Collmus
Subject: Etkk receipts

.....
.....

Total charged \$1029.40
Thank you for your business, Carol

.....
.....

~~CONFIRMATION FOR RESERVATION~~

Thank you for choosing checkmytrip.com to check your travel

reservation.
You can review your reservation information below.
To see the latest information about your reservation, you can go to
https://www.checkmytrip.com/plnext/XCMTXITN/RetrievePNR.action?DIRECT_RETRIEVE=TRUE&REC_LOC=4VE7FS&DIRECT_RETRIEVE_LASTNAME=Collmus&LANGUAGE=GB&SITE=XCMTXITN

YOUR TRIP SUMMARY *

Booking reservation number: 4VE7FS

* We recommend you make a note of the booking reservation number or print this page.

TRAVELLER INFORMATION *

John H Collmus
Jacquelyn S Collmus

E-TICKET NUMBERS *

Only e-ticket numbers are displayed when they are issued.

Ticket 005-7568704890

Richmond - Richmond
John H Collmus

Ticket 005-7568704892

Richmond - Richmond
Jacquelyn S Collmus

YOUR FLIGHT SELECTION *

Airline confirmation number(s): Continental Airlines ABLHFG
Ticket status: ticket processed

Richmond to Managua

Flight 1 - Sunday, November 15, 2009
Status :confirmed
Departure :10:32 - Richmond, USA - Richmond International
Arrival :11:39 - Newark, USA - Newark Liberty International,
terminal A
Airline :Continental Airlines CO2464
Fare type :Economy Restricted
Aircraft :Embraer RJ135/140/145 - Operated by EXPRESSJET

AIRLINES
INC DBA CO EXPRE
Baggage :1 piece(s) per traveller
Meal :information not available
Last check in:information not available

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Change of plane required. Time between flights = 1:51<

+++++

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Flight 2 - Sunday, November 15, 2009
Status :confirmed
Departure :13:30 - Newark, USA - Newark Liberty International,
terminal C
Arrival :16:30 - Houston, USA - G.Bush Intercont, terminal C
Airline :Continental Airlines CO023
Fare type :Economy Restricted
Aircraft :Boeing 757-200/300
Baggage :1 piece(s) per traveller
Meal :information not available
Last check in:information not available

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+++

Change of plane required. Time between flights = 1:15<

+++++

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Flight 3 - Sunday, November 15, 2009
Status :confirmed
Departure :17:45 - Houston, USA - G.Bush Intercont, terminal E
Arrival :21:03 - Managua, Nicaragua - Augusto C Sandino
Airline :Continental Airlines CO1774
Fare type :Economy Restricted
Aircraft :Boeing 737-800
Baggage :1 piece(s) per traveller
Meal :SNACK OR BRUNCH
Last check in:information not available

Managua to Richmond

Flight 1 - Thursday, November 19, 2009
Status :confirmed
Departure :07:45 - Managua, Nicaragua - Augusto C Sandino
Arrival :11:03 - Houston, USA - G.Bush Intercont, terminal E
Airline :Continental Airlines CO1775
Fare type :Economy Restricted
Aircraft :Boeing 737-800
Baggage :1 piece(s) per traveller
Meal :SNACK OR BRUNCH
Last check in:information not available

+++++

+++

Change of plane required. Time between flights = 2:22<

+++++

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Flight 2 - Thursday, November 19, 2009
 Status :confirmed
 Departure :13:25 - Houston, USA - G.Bush Intercont, terminal B
 Arrival :17:00 - Richmond, USA - Richmond International
 Airline :Continental Airlines CO3078
 Fare type :Economy Restricted
 Aircraft :Embraer RJ135/140/145 - Operated by EXPRESSJET
 AIRLINES
 INC DBA CO EXPRE
 Baggage :1 piece(s) per traveller
 Meal :information not available
 Last check in:information not available

 FLIGHT PAYMENT *

 Air Fare not Available

 FLIGHT NOTES *

 Not all seat and meal options are offered on all flights.

Specific rules and restrictions may apply to this fare.
 Taxes are included except where local airport taxes are collected
 at
 check-in time.

 FLIGHT SPECIAL REQUESTS *

Seat request:
 Richmond - Managua
 Flight 1: Richmond - Newark: 19C (confirmed), 19B (confirmed)
 Flight 2: Newark - Houston: 20E (confirmed), 20B (confirmed)
 Flight 3: Houston - Managua: 22C (confirmed), 22B (confirmed)
 Managua - Richmond
 Flight 1: Managua - Houston: 20C (confirmed), 20B (confirmed)
 Flight 2: Houston - Richmond: 14C (confirmed), 14B (confirmed)

Seat location preferences:
 None specified
 Meal preferences:
 None specified
 Meet and assist travellers with special needs:
 None specified
 Wheelchairs needed:
 John H Collmus:0
 Jacquelyn S Collmus:0

 MISCELLANEOUS *

 R Reagan National (Washington, District of Columbia, USA)

Monday, August 30, 2010
 Notes : TAT

RESERVATION OFFICE *

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ALEXANDRIA VA 22302
UNITED STATES OF A
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Fax:703 824-8190

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

VOL. II

UNITED STATES OF AMERICA,)	
)	Case No. 1:14-CR-00175
)	(RJA)(JJM)
Plaintiff,)	
)	
vs.)	September 22nd, 2016
)	
PHILIP ZODHIATES,)	
)	
Defendant.)	

**TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD J. ARCARA
SENIOR UNITED STATES DISTRICT JUDGE**

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5 Court Reporter: MEGAN E. PELKA, RPR
6 Robert H. Jackson Courthouse
2 Niagara Square
Buffalo, NY 14202

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1 name and the party you represent for the record.

2 MR. DiGIACOMO: Good morning, ladies and gentlemen
3 and Your Honor. Michael DiGiacomo for the United States of
4 America.

5 MR. VAN DE GRAAF: Paul Van De Graaf for the United
6 States.

7 MR. HEMLEY: Robert Hemley for Mr. Zodhiates.

8 MR. GRABLE: James Grable, also for Mr. Zodhiates.

9 MR. BOYD: David Boyd for Mr. Zodhiates.

10 THE COURT: Good morning, everyone. Good morning,
11 ladies and gentlemen. How is everyone today? Weather is
12 still pretty nice.

13 (An off-the-record discussion was held.)

14 THE COURT: We're about ready to start in one moment.
15 I just want to have one thing checked. All right.
16 Mr. DiGiacomo?

17 MR. VAN DE GRAAF: Thank you, Your Honor. Your
18 Honor, at this time, the government would call Jessica Fehr to
19 the stand. She will be witness number 11 on the list.

20 THE CLERK: Please state your full name and spell
21 your last name for the record.

22 THE WITNESS: Jessica Fehr, F-E-H-R.

23 (The witness was affirmed at 9:08 a.m.)

24 MR. VAN DE GRAAF: May I proceed, Your Honor?

25 THE COURT: Yes, please.

1 DIRECT EXAMINATION

2

3 BY MR. VAN DE GRAAF:

4 Q. Good morning, Ms. Fehr. How are you today?

5 A. Good.

6 Q. You look a little nervous. Ms. Fehr, I'd ask you to keep

7 your voice up for the benefit of the jury and the court

8 reporter. If you have to hold the microphone closer, that's

9 okay. All right? Ms. Fehr, could you tell the jury,

10 currently where do you live?

11 A. Oregon.

12 Q. And you live there. Are you married?

13 A. Yes, I am.

14 Q. Do you have any children?

15 A. Foster kids.

16 Q. Okay. And you're in Oregon now and I want to go back to

17 a point in time in 2009 if we could, okay?

18 A. Yes.

19 Q. Ms. Fehr, go back to 2009. Did there come a point in

20 time, in 2009, that you left the United States and went over

21 to a different country?

22 A. Yes.

23 Q. And do you recall approximately when that was?

24 A. May 2009.

25 Q. Okay. And could you tell the jury where did you go in

1 May of 2009?

2 A. Managua, Nicaragua.

3 Q. And what was the purpose of you going to Nicaragua?

4 A. To do work, volunteer work.

5 Q. Okay. And when you went to do volunteer work, were you
6 working with one individual, multiple individuals?

7 A. A couple.

8 Q. Okay. Who did you go and help out?

9 A. Timothy and Joanna Miller.

10 Q. Now, how was it that you went over to Managua to help
11 Timothy and Joanna Miller in May 2009? What I'm asking is,
12 what were the circumstances that led you over there?

13 A. My brother-in-law and his wife were at a ministers
14 meeting and they met them and found out that they needed
15 help, so they let them know about me.

16 Q. Okay. Now, you said your brother-in-law and your sister
17 had an acquaintance or friendship or some type of
18 relationship with Timothy and Joanna Miller, right?

19 A. Yes.

20 Q. Okay. You said they were pastors. As you sit here
21 today, do you know, in 2009, what religious faith or
22 denomination they were pastors together?

23 A. Mennonite.

24 Q. All right. Now, you said you traveled over there in May
25 of 2009. When you traveled over there to help out Timothy

1 and Joanna Miller, where did you stay?

2 A. With Timothy and Joanna.

3 Q. And when you got there, in May of 2009, generally, what
4 did you do for Timothy and Joanna Miller?

5 A. I helped with the children and with cleaning.

6 Q. All right. And did there come a point in time -- well,
7 let me ask you this: Did you eventually leave in helping out
8 Timothy and Joanna Miller?

9 A. I did.

10 Q. All right. And do you recall about how long you stayed
11 in Managua with the Millers?

12 A. Nine months.

13 Q. Now, did there come a point in 2009 that another female
14 and a child came to live with the Millers?

15 A. Yes.

16 Q. Okay. Do you recall approximately, as you sit here
17 today, when that was?

18 A. Several months later.

19 Q. Several months later. Do you know if it was late summer
20 or fall?

21 A. Fall.

22 Q. Fall. Okay. And let's talk about the circumstances of
23 these individuals that came. The entire time you were there,
24 you were living with the Millers?

25 A. Yes.

1 Q. All right. And did it ever -- was it brought to your
2 attention by Timothy Miller or Joanna Miller that they were
3 going to get some additional house guests?

4 A. Not right away.

5 Q. Okay. You say not right away. Did there come a point in
6 time --

7 A. Yes.

8 Q. Okay. When did you learn, while you were staying with
9 the Millers, that a woman and her child were coming to stay
10 with them?

11 A. I don't understand.

12 Q. Okay. You said not right away?

13 A. Well, I eventually knew.

14 Q. Okay. How did you eventually know?

15 A. They were talking about it.

16 Q. Okay. Timothy and Joanna?

17 A. Yes.

18 Q. What did they say?

19 A. That somebody was going to come and that they needed a
20 place to stay.

21 Q. All right. Did you ask why she was coming and why she
22 needed a place to stay?

23 A. No.

24 Q. All right. Did you learn, at any point in time, through
25 these discussions or conversations, as to why they were

1 coming to stay with the Millers?

2 A. Yes.

3 MR. GRABLE: Object to the hearsay.

4 MR. VAN DE GRAAF: Your Honor, we believe this was
5 covered yesterday in a stipulation. It's a co-conspirator
6 statement. The Court already ruled. And I believe Mr. Hemley
7 agreed that we've already proved up that there was a
8 conspiracy.

9 THE COURT: Overruled.

10 MR. GRABLE: Well, Your Honor, that's absolutely
11 not --

12 THE COURT: I don't want to hear any argument. I
13 already made a ruling. Your objection is noted.

14 BY MR. VAN DE GRAAF:

15 Q. So, did there come a point in time when you spoke with
16 the Millers?

17 A. Yes.

18 Q. Okay. And what did you learn as to why they were coming?

19 A. That she was trying to --

20 THE COURT: Who said this to you?

21 THE WITNESS: Timothy.

22 THE COURT: All right. What did he say?

23 THE WITNESS: They were looking for a place to keep
24 this mother and child.

25

1 BY MR. VAN DE GRAAF:

2 Q. Okay. Did he say why?

3 A. That Janet Jenkins was trying to get her daughter back.

4 Q. Okay. Now, prior to the arrival, do you learn the names
5 of who is coming to stay?

6 A. No.

7 Q. Okay. You're living with the Millers. Does this woman
8 and child show up?

9 A. Yes.

10 Q. Okay. Are you introduced to them?

11 A. Yes.

12 Q. And are you -- how are you introduced to them?

13 A. By Sarah and Lydia.

14 Q. As you're there and they're introduced to you as Sarah
15 and Lydia, do you become acquainted and develop a
16 relationship with Sarah and Lydia?

17 A. Yes.

18 Q. And during the time that you are there and you developed
19 this acquaintance, do you learn their true names?

20 A. Yes.

21 Q. What did you learn their true names to be?

22 A. Lisa and Isabella.

23 Q. Did you know their last name?

24 A. Miller.

25 THE COURT: Did you learn which one was Sarah and

1 which one was Lydia?

2 THE WITNESS: Yes.

3 THE COURT: Which one was Sarah?

4 THE WITNESS: Sarah was the mother and Lydia was the
5 daughter.

6 THE COURT: Okay.

7 BY MR. VAN DE GRAAF:

8 Q. And you're still living with the Millers when -- you're
9 living with Timothy and Joanna Miller when Lisa and Isabella
10 Miller show up?

11 A. Yes.

12 Q. All right. Is it a large house?

13 A. I'm sorry?

14 Q. Is it a large house? Did everybody fit comfortably?

15 A. It was three bedrooms.

16 Q. All right. Did there -- when they showed up, Lisa and
17 Isabella Miller, when they showed up, did you notice if they
18 had luggage with them?

19 A. No, I didn't.

20 Q. Okay. Well, you told this jury that you stayed with the
21 Millers for nine months and that you arrived in May of 2009,
22 so you left sometime in early 2010?

23 A. Yes.

24 Q. The entire time that you were with the Millers, was Lisa
25 Miller and Isabella Miller in Nicaragua?

1 A. Yes.

2 Q. Did they stay with Timothy and Joanna Miller the entire
3 time they were in Nicaragua?

4 A. No.

5 Q. What -- to your knowledge, where did they go?

6 A. Down the road.

7 Q. To their own place?

8 A. Yes.

9 Q. Where down the road? And during the time that you're
10 having interactions with Lisa Miller and her daughter, did
11 you make any observations of them? And what I'm asking you
12 is: Can you describe their demeanor when you first met them?

13 A. Isabella looked scared and shy.

14 Q. Okay. And how about Lisa?

15 A. She seemed fine.

16 MR. VAN DE GRAAF: Your Honor, may I approach?

17 THE COURT: Yes.

18 MR. VAN DE GRAAF: Thanks.

19 BY MR. VAN DE GRAAF:

20 Q. Now, showing you what's been marked for identification as
21 Government's Exhibit 8. I ask you, Ms. Fehr, do you
22 recognize that?

23 A. Yes.

24 Q. What do you recognize that to be?

25 A. Isabella.

1 Q. Okay. And is that a picture, a true and accurate
2 representation, as you remember Isabella, back in 2009?

3 A. Yes.

4 MR. VAN DE GRAAF: Your Honor, unless there's an
5 objection, we would move Government Exhibit 8 into evidence.

6 MR. GRABLE: No objection.

7 THE COURT: All right. It will be admitted.

8 (Government's Exhibit 8 was received in evidence.)

9

10 MR. VAN DE GRAAF: Would you kindly publish
11 Government Exhibit 8, please.

12 BY MR. VAN DE GRAAF:

13 Q. So, as you just told this jury, that's what you recall
14 Isabella Miller looking like when you were introduced to her
15 in 2008?

16 A. That's correct.

17 Q. Now, Ms. Fehr, during the time that you were in
18 Nicaragua, did you maintain an email account?

19 A. I did.

20 Q. All right.

21 MR. VAN DE GRAAF: Your Honor, at this time, the
22 government would like to read Government Exhibit 132 into
23 evidence, which is a stipulation that relates to some emails;
24 two of which are encompassed in this stipulation that I'm
25 going to ask the witness about.

1 And Government's Exhibit 132 reads: By and through
2 its attorney, William J. Hochul, Jr., United States Attorney
3 for the Western District of New York and Paul J. Van De Graaf,
4 Special Assistant United States Attorney of counsel and Philip
5 Zodhiates and his counsel, Robert B. Hemley, Esq., hereby
6 stipulate and agree that a representative of Google with
7 knowledge of the information listed below would testify as
8 follows:

9 One, that Google is a corporation headquartered in
10 Mountain View, California; provides a variety of online
11 services, including search, email and advertising solutions.
12 Google's online email product is called Gmail.

13 Two. Google retains the header information and the
14 content from email messages. When emails are deleted from a
15 user's trash file, they are considered to be permanently
16 deleted and they are retained on Google servers for
17 approximately 60 days. The user does not have access to those
18 emails at that point in time.

19 Three. Google produced true and correct copies of
20 available email records pursuant to search warrants for the
21 following Gmail accounts on the following dates:
22 Timojmiller@gmail.com on November 2nd, 2010 and February 3rd,
23 2011 Kingdomseeker1@gmail.com on September 15th, 2011 and
24 Millersof -- I'll spell it -- W-A-S-L-A-L-A, @gmail.com on
25 February 1st, 2011.

1 Exhibits 96A through 96N, as in Nancy, are true and
2 correct copies of emails taken from the Google productions
3 from Gmail account Timo J -- oh, I'm sorry --
4 Timjomiller@gmail.com.

5 Exhibits 97A through 97C are true copies and correct
6 copies of emails taken from the Google production from Gmail
7 account Kingdomseeker1@gmail.com.

8 And Exhibit 98A through 98C are true and correct
9 copies of emails taken from the Google production from Gmail
10 account Millersofwaslala@gmail.com.

11 And that stipulation is dated 9/21/2016, signed by
12 Mr. Van De Graaf, as well as Mr. Hemley.

13 (Government's Exhibit 132 was received in evidence.)

14

15 BY MR. VAN DE GRAAF:

16 Q. Ma'am, going back to my question, I asked if you had a
17 Gmail account while you were in Nicaragua and I'd like to
18 show you what's been marked for identification as Government
19 Exhibit 96M and 96N and ask you, first off, do you recognize
20 the email header?

21 A. Yes.

22 Q. Okay. And who is the email header?

23 A. My email address.

24 Q. Okay. So, it's your email. And do you recognize the
25 other email address?

1 A. Timothy.

2 Q. Okay. And had you emailed the Millers using your Gmail
3 address in the past?

4 A. Yes.

5 Q. Using these two email accounts?

6 A. Yes.

7 MR. VAN DE GRAAF: Your Honor, pursuant to the
8 stipulation and the authenticity of the witness, we would move
9 those two exhibits into evidence.

10 MR. GRABLE: No objection.

11 THE COURT: All right. It will be received.

12 (Government's Exhibits 96M and 96N were received in evidence.)

13

14 THE COURT: What are the exhibit numbers?

15 MR. VAN DE GRAAF: Yes, Your Honor. One is 96M, as
16 in Mary and the second one being 96N, as in Nancy. Would you
17 kindly pull up 96M for the jury to see?

18 BY MR. VAN DE GRAAF:

19 Q. Ms. Fehr, do you see the date on this email? And if it's
20 easier for you, you can use your monitor.

21 A. I do.

22 Q. And you said that you recognize the from as your email?

23 A. Yes.

24 Q. And you recognize that to be Mr. Timothy Miller's email?

25 A. Yes.

1 Q. Okay. Now, looking at this email, it starts out: Hey,
2 it's me, Sarah. And it goes on and talks about some other
3 things. My question is: Do you recognize this email?

4 A. No.

5 Q. Okay. As you sit here today, did you create this email?

6 A. No, I didn't.

7 Q. Okay. Did you ever identify yourself as Sarah?

8 A. No.

9 Q. Okay. And who -- who, again, was -- what was Lisa
10 Miller's name known as --

11 A. Sarah.

12 Q. Sarah. Now, you said you didn't create this, but it's
13 from your email account?

14 A. Yes.

15 Q. Okay. And did Lisa Miller have access to your email
16 account?

17 A. No.

18 Q. Did you have or give anyone permission to utilize your
19 email account?

20 A. No.

21 Q. Okay. So, as you sit here today, you have no idea how
22 your email was used by someone who's identified themselves as
23 Sarah?

24 A. Yes.

25 Q. Did Timothy or Joanna Miller have access to your email

1 account?

2 A. They did.

3 Q. Did they have your password?

4 A. Yes.

5 Q. Okay. Now, looking at --

6 MR. VAN DE GRAAF: If you can pull up the next one
7 for me, 96N, please?

8 BY MR. VAN DE GRAAF:

9 Q. Same thing. Do you see the date, January of 2010?

10 A. Yes.

11 Q. All right. And again, it's your email account, sent to
12 the Millers?

13 A. Right.

14 Q. And you've seen the contents of this email?

15 A. Yes.

16 Q. All right. And it's signed -- there's a name at the very
17 last part of this. Whose name appears there?

18 A. Sarah.

19 Q. And as you look at this, Ms. Fehr, as you sit here today,
20 had you ever seen this email before?

21 A. No.

22 Q. Did you type this email?

23 A. No.

24 MR. VAN DE GRAAF: If I could just have one moment,
25 Your Honor.

1 BY MR. VAN DE GRAAF:

2 Q. Two more questions, Ms. Fehr. When you were there in
3 Managua, did Lisa Miller do anything while she was there?

4 A. Taught school.

5 Q. Taught school? At a -- can you explain when you say
6 taught school, was it a school within the community or was
7 it -- what type of school was it?

8 A. Home school.

9 Q. Home school. And in the home school, who did she teach?

10 A. Some of Timo's children and her daughter.

11 Q. Okay. Did you assist in any way?

12 A. I did.

13 Q. Okay. And when -- can you describe when Lisa Miller and
14 Isabella Miller were in Managua, how would they dress?

15 A. In Mennonite attire.

16 MR. VAN DE GRAAF: Thank you, Your Honor. I have
17 nothing further.

18

19 CROSS-EXAMINATION

20

21 BY MR. GRABLE:

22 Q. Good morning.

23 A. Good morning.

24 Q. My name is Jim Grable. We have never spoken before,
25 correct?

1 A. Correct.

2 Q. I'm going to ask you some questions now. I represent
3 Philip Zodhiates and I'd like to ask you some follow-up
4 questions to the ones that Mr. DiGiacomo asked you a few
5 moments ago, if that's okay?

6 A. Yes.

7 Q. Okay. Good. Now, the first questions I have for you is
8 when was the last time, prior to coming into this courtroom,
9 that you spoke to Mr. DiGiacomo or someone from the
10 government?

11 A. Tuesday.

12 Q. Did you fly into Buffalo on Tuesday?

13 A. Monday.

14 Q. Okay. That would have been this past Monday?

15 A. Yes.

16 Q. And you met with the government where?

17 A. At the lawyers' office.

18 Q. At Mr. DiGiacomo's office?

19 A. Yes.

20 Q. And with whom did you meet?

21 A. Him.

22 Q. Just Mr. DiGiacomo?

23 A. Yes.

24 Q. Was there anyone else present?

25 A. No.

1 Q. Now, did Mr. DiGiacomo talk to you about the questions he
2 was going to ask you today?

3 A. Yes.

4 Q. And did he go over with you that he was going to ask you
5 what Lisa Miller looked like when you saw her in Nicaragua?

6 A. Yes.

7 Q. And did he tell you that he was going to ask you
8 questions about whether she looked scared?

9 A. I'm sorry. What was that?

10 Q. Did he tell you that he was going to ask you a question
11 about whether she looked scared?

12 A. Yes.

13 Q. And did he tell you that he wanted you to convey that to
14 the jury?

15 A. No.

16 Q. Okay. Did he show you the picture of Isabella?

17 A. No.

18 Q. Okay. Now, you met with him for how long?

19 A. I don't know, 10, 15 minutes.

20 Q. You previously had met with a government agent for the
21 Marshals Service by the name of Mr. Galusha, correct?

22 A. Yes.

23 Q. And that would have been in September of 2011, correct?

24 A. I think so.

25 Q. And do you have a recollection of that, at that point in

1 time. You did not, in fact, convey to Mr. Galusha that
2 Ms. -- that Isabella looked scared at any point in time; do
3 you remember telling him that?

4 A. I don't remember.

5 Q. In any event, the time that you were in Nicaragua you
6 resided with someone named Timo Miller, correct?

7 A. Yes.

8 Q. You don't know Philip Zodhiates; fair to say?

9 A. I do not.

10 Q. Never met him, correct?

11 A. Never.

12 Q. Never heard of him?

13 A. No.

14 Q. Okay. Now, the time that you were in Nicaragua, the time
15 that overlapped with Lisa Miller, would have been from the
16 Fall of 2009 until about February of 2010, correct?

17 A. Correct.

18 Q. And it was during that window that you were, in addition
19 to doing some work with the Mennonites and Timo Miller, were
20 you also assisting something called CAM?

21 A. I didn't help with that, no.

22 Q. Okay. Are you familiar with CAM?

23 A. Yes.

24 Q. Could you tell us, what is CAM?

25 A. They help distribute food and blankets, I believe.

1 Q. Right. CAM, to your understanding, is an organization,
2 Christian organization, that receives information -- or
3 receives items, I should say, from people all over the world,
4 basically. And then it helps distribute those household
5 materials to people within Nicaragua, correct?

6 A. Yes.

7 Q. And in the course of your time in Nicaragua, you had
8 occasion to see CAM engaged in its work from time to time;
9 fair to say?

10 A. Yes.

11 Q. Okay. Now, do you still have the exhibits available to
12 you that Mr. DiGiacomo showed you?

13 A. Yes.

14 Q. Okay. So, you should have Government Exhibits 96M and
15 96N in evidence and you have both of those?

16 A. Yes.

17 Q. You told us, on your direct examination, that you never
18 permitted anybody to use your email account and certainly not
19 Lisa Miller, correct?

20 A. That's correct.

21 Q. And so, I think what you're telling us is that Lisa
22 Miller, if in fact it was Lisa Miller who sent these emails,
23 did so without your permission, correct?

24 A. Correct.

25 Q. And she did so without telling you what her intention

1 was, correct?

2 A. Correct.

3 Q. And she did so -- used your email account without even
4 coming to you to say, can I use this email account?

5 A. Yes.

6 Q. Again, if, in fact, the person who sent these emails was
7 Lisa?

8 A. Yes.

9 Q. How did you find out about these emails?

10 A. I got a call from somebody.

11 Q. Somebody from the government?

12 A. Yes.

13 Q. Okay. And they told you that they had some emails they
14 wanted to talk to you about?

15 A. Yes.

16 Q. Okay. Now, in the time that you were in Nicaragua and
17 the window of time that overlapped with you seeing Lisa and
18 Isabella, was it your sense that Lisa was making decisions
19 for herself? And by that I mean, there's nobody telling her
20 what to do; fair to say?

21 A. Right.

22 Q. She would make her day-to-day decisions on her own, in
23 terms of coming and going, correct?

24 A. Yes.

25 Q. And did you see any evidence that anybody was retaining

1 her in Nicaragua against her will?

2 A. No.

3 Q. Okay. It seemed to you that whatever decisions she was
4 making about coming or going were decisions that were hers
5 and hers alone?

6 A. Yes.

7 Q. Okay. Did there come a time where she left the village
8 where you were and went to a different village?

9 A. Yes.

10 Q. Is that a decision she made on her own or did someone
11 else make that decision for her?

12 A. I believe she did it on her own.

13 Q. Now, after you left Nicaragua in February of 2010, you
14 have no idea what Lisa Miller did after that, correct?

15 A. I don't.

16 Q. You don't have any idea whether she stayed in Nicaragua,
17 came back to the United States, or whatever else she might
18 have done?

19 A. I have no idea.

20 MR. GRABLE: One moment, please, Your Honor. Thank
21 you. I don't have any other questions.

22 MR. VAN DE GRAAF: Nothing further, Your Honor.
23 Thank you.

24 THE COURT: Thank you, ma'am.

25 (The witness was excused at 9:34 a.m.)

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* * * * *

I certify that the foregoing is a
correct transcription of the proceedings
recorded by me in this matter.

s/ Megan E. Pelka, RPR

Court Reporter,

CLOSED

**U.S. District Court
District of Vermont (Rutland)
CRIMINAL DOCKET FOR CASE #: 5:11-cr-00044-cr-1**

Case title: USA v. Miller
Magistrate judge case number: 2:11-mj-00028-jmc

Date Filed: 05/12/2011
Date Terminated: 10/28/2011

Assigned to: Judge Christina Reiss

Defendant (1)

Timothy David Miller
TERMINATED: 10/28/2011
also known as
Timo Miller
TERMINATED: 10/28/2011

represented by **Gregory J. Glennon , Esq.**
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Defender Appointment*

Pending Counts

None

Disposition

Highest Offense Level (Opening)

Case: 5:11-cr-00044-cr As of: 10/31/2018 06:41 PM EDT 2 of 4

None

Terminated Counts

18:1204, 2.F – INTERNATIONAL PARENTAL KIDNAPPING – aiding in removing a child from the United States and retaining the child outside of the United States with intent to obstruct lawful exercise of parental rights
(1)

Disposition

Dismissed by government

Highest Offense Level (Terminated)

Felony

Complaints

18:1204, 2.F – INTERNATIONAL PARENTAL KIDNAPPING – aiding in removing a child from the United States and retaining outside of the United States with intent to obstruct lawful exercise of parental right

Disposition**Plaintiff**

USA

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Date Filed	#	Docket Text
04/01/2011	<u>1</u>	COMPLAINT as to Timothy David Miller (1). (Attachments: # <u>1</u> Affidavit of Dana L. Kaegel) (hbc) [2:11-mj-00028-jmc] (Entered: 04/01/2011)

Case: 5:11-cr-00044-cr As of: 10/31/2018 06:41 PM EDT 3 of 4

04/01/2011	<u>3</u>	MOTION to Seal <u>1</u> Complaint and Arrest Warrant by USA as to Timothy David Miller. (hbc) [2:11-mj-00028-jmc] (Entered: 04/01/2011)
04/01/2011	<u>4</u>	ORDER granting <u>3</u> MOTION to Seal <u>1</u> Complaint and Arrest Warrant as to Timothy David Miller (1). Signed by Judge John M. Conroy on 4/1/2011. (hbc) [2:11-mj-00028-jmc] (Entered: 04/01/2011)
04/21/2011	<u>5</u>	ORDER Appointing FPD for Timothy David Miller. Signed by Deputy Clerk on 4/21/2011. (jjj) [2:11-mj-00028-jmc] (Entered: 04/21/2011)
04/21/2011	<u>6</u>	NOTICE OF HEARING as to Timothy David Miller: Initial Appearance set for 4/25/2011 09:00 AM in Burlington Courtroom 440 before Judge John M. Conroy.(jjj) Courtroom corrected on 4/25/2011 (jlh). [2:11-mj-00028-jmc] (Entered: 04/21/2011)
04/21/2011	<u>7</u>	ARREST WARRANT RETURNED executed on 4/18/2011 as to Timothy David Miller. (hbc) [2:11-mj-00028-jmc] (Entered: 04/22/2011)
04/22/2011	<u>8</u>	NOTICE OF APPEARANCE by Steven L. Barth, AFD appearing for Timothy David Miller.(Barth, Steven) [2:11-mj-00028-jmc] (Entered: 04/22/2011)
04/25/2011	<u>9</u>	Receipt for Surrender of Passport as to Timothy David Miller Passport Number 455117937 issued by United States. (hbc) [2:11-mj-00028-jmc] (Entered: 04/25/2011)
04/25/2011	<u>10</u>	CJA 23 Financial Affidavit by Timothy David Miller. (Document image is sealed) (jjj) [2:11-mj-00028-jmc] (Entered: 04/25/2011)
04/25/2011	<u>11</u>	MINUTE ENTRY for proceedings held before Judge John M. Conroy Initial Appearance as to Timothy David Miller held on 4/25/2011. Deft present with Steven Barth, AFD and Annika Frostick, AUSA present for Govt. ORDERED: Deft to be released on Amended Conditions of Release and \$25,000.00 unsecured bond executed in E.D. of VA to remain in effect. Preliminary Hearing set for 5/10/2011 10:00 AM in Burlington Courtroom 440 before Judge John M. Conroy. (Court Reporter: recorded) (jjj) [2:11-mj-00028-jmc] (Entered: 04/25/2011)
04/25/2011	<u>12</u>	AMENDED ORDER Setting Conditions of Release as to Timothy David Miller. Signed by Judge John M. Conroy on 4/25/2011. (jjj) (Main Document 12 replaced on 4/26/2011 to include page numbering) (law). [2:11-mj-00028-jmc] (Entered: 04/25/2011)
04/25/2011		ATTORNEY UPDATE as to Timothy David Miller. Attorney Gregory J. Glennon, Esq for Timothy David Miller added as CJA Training Panel counsel (jjj) [2:11-mj-00028-jmc] (Entered: 04/25/2011)
04/25/2011	<u>13</u>	RULE 5(c)(3) Documents Received from Eastern District of Virginia as to Timothy David Miller. (Attachments: # <u>1</u> Waiver of Rule 5 & 5.1 Hearings, # <u>2</u> Minute Entry of 4/20/2011, # <u>3</u> Order Setting Conditions of Release, # <u>4</u> Appearance Bond (\$25,000 unsecured))(law) [2:11-mj-00028-jmc] (Entered: 04/25/2011)
04/29/2011		ATTORNEY UPDATE as to Timothy David Miller. Attorney Paul J. Van de Graaf, AUSA for USA added. Pursuant to Lauren @ USAO. (law) [2:11-mj-00028-jmc] (Entered: 04/29/2011)
05/09/2011	<u>14</u>	WAIVER of Preliminary Hearing by Timothy David Miller (jjj) [2:11-mj-00028-jmc] (Entered: 05/10/2011)
05/12/2011	<u>15</u>	INDICTMENT as to Timothy David Miller (1) count(s) 1. (pam) (Entered: 05/12/2011)
05/17/2011	<u>16</u>	NOTICE OF HEARING as to Timothy David Miller: Arraignment set for 5/25/2011 01:00 PM in Burlington Courtroom 440 before Judge John M. Conroy.(jjj) (Entered: 05/17/2011)
05/23/2011		ATTORNEY UPDATE as to Timothy David Miller. Attorney Annika G Frostick, AUSA for USA added. Pursuant to Lauren @ USAO. (law) (Entered: 05/23/2011)
05/25/2011	<u>17</u>	WAIVER of Personal Appearance at Arraignment and Entry of Plea of Not Guilty by Timothy David Miller. Signed by Judge John M. Conroy on 5/25/2011. (jjj) (Entered: 05/25/2011)

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05/25/2011	<u>18</u>	MINUTE ENTRY for proceedings held before Judge John M. Conroy. Arraignment as to Timothy David Miller held on 5/25/2011. Deft not present represented by Steven Barth, AFPD and Annika Frostick, AUSA present for Govt. Court enter not guilty plea to Ct 1 on deft's behalf. ORDERED: Motions due by 8/25/2011. (Court Reporter: recorded)(jjj) (Entered: 05/25/2011)
05/25/2011	<u>19</u>	CRIMINAL PRETRIAL SCHEDULING ORDER as to Timothy David Miller. Motions due by 8/25/2011. Time excluded from 5/25/2011 to 8/25/2011. Signed by Judge John M. Conroy on 5/25/2011. (jjj) (Entered: 05/25/2011)
06/09/2011	<u>20</u>	NOTICE OF APPEARANCE by Paul S. Volk, Esq. appearing for Timothy David Miller. (pam) (Entered: 06/09/2011)
06/09/2011	<u>21</u>	MOTION for Admission Pro Hac Vice of Jeffrey A. Conrad by Timothy David Miller. (Attachments: # <u>1</u> Affidavit of Jeffrey Conrad, Esq., # <u>2</u> Certificate of Good Standing)(jlh) (Entered: 06/09/2011)
06/09/2011		ATTORNEY UPDATE as to Timothy David Miller. Attorney Steven L. Barth, AFPD and Gregory J. Glennon, Esq. terminated per filing of doc. <u>20</u> . (pam) (Entered: 06/10/2011)
06/13/2011	<u>22</u>	ORDER granting <u>21</u> Motion for Admission Pro Hac Vice re: Jeffrey Conrad, Esq., as to Timothy David Miller (1). Signed by Chief Judge Christina Reiss on 6/13/2011. (This is a text only Order.) (cle) (Entered: 06/13/2011)
06/14/2011	<u>23</u>	CERTIFICATE OF SERVICE by Timothy David Miller re <u>20</u> Notice of Appearance, <u>21</u> MOTION for Admission Pro Hac Vice of Jeffrey A. Conrad. (pam) (Entered: 06/15/2011)
07/15/2011	<u>24</u>	NOTICE of Filing of Discovery Request by Timothy David Miller (Conrad, Jeffrey) (Entered: 07/15/2011)
08/22/2011	<u>25</u>	MOTION for Extension of Time to File Pretrial Motions by Timothy David Miller. (Attachments: # <u>1</u> Text of Proposed Order)(Conrad, Jeffrey) (Entered: 08/22/2011)
08/25/2011	<u>26</u>	ORDER granting <u>25</u> Motion for Extension of Time to File Pretrial Motions as to Timothy David Miller. Pretrial Motions due 9/8/2011. Signed by Chief Judge Christina Reiss on 8/25/2011. (pam) (Entered: 08/25/2011)
09/08/2011	<u>27</u>	MOTION to Suppress Statements, MOTION for Change of Venue by Timothy David Miller. (Attachments: # <u>1</u> Text of Proposed Order)(Conrad, Jeffrey). Added MOTION to Change Venue Relief on 9/9/2011 (jlh). (Entered: 09/08/2011)
09/08/2011	<u>28</u>	MEMORANDUM by Timothy David Miller in support of <u>27</u> MOTION to Suppress, MOTION for Change of Venue filed by Timothy David Miller (Conrad, Jeffrey) Text clarified on 9/9/2011 (jlh). (Entered: 09/08/2011)
09/08/2011		ATTORNEY UPDATE as to Timothy David Miller. Attorney Eugenia A. Cowles, AUSA for USA added. Pursuant to Lauren @ USAO. (law) (Entered: 09/08/2011)
09/22/2011	<u>29</u>	RESPONSE in Opposition to <u>27</u> MOTION to Suppress Statements, MOTION to Change Venue by USA as to Timothy David Miller (Attachments: # <u>1</u> Certificate of Service).(Van de Graaf, Paul) (Entered: 09/22/2011)
10/05/2011	<u>30</u>	NOTICE OF HEARING as to Timothy David Miller re: <u>27</u> MOTION to Suppress Statements, MOTION to Change Venue: Motion Hearing set for 10/24/2011, 1:00 PM in Rutland Courtroom before Chief Judge Christina Reiss. (pjl) (Entered: 10/05/2011)
10/05/2011		ATTORNEY UPDATE as to Timothy David Miller. Attorney Annika G Frostick, AUSA terminated. Pursuant to Cheryl @ USAO. (law) (Entered: 10/05/2011)
10/28/2011	<u>31</u>	ORDER Dismissing <u>15</u> Indictment Without Prejudice as to Timothy David Miller. Signed by Chief Judge Christina Reiss on 10/28/2011. (pam) (Entered: 10/28/2011)
10/28/2011	<u>32</u>	ORDER RELEASING COLLATERAL as to Timothy David Miller. Signed by Chief Judge Christina Reiss on 10/28/2011. (pam) (Entered: 10/28/2011)

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CASREF

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Buffalo)
CRIMINAL DOCKET FOR CASE #: 1:14-cr-00175-RJA-JJM-3

Case title: USA v. Miller et al

Date Filed: 09/19/2014

Date Terminated: 03/28/2017

Assigned to: Hon. Richard J.
Arcara
Referred to: Hon. Jeremiah J.
McCarthy

Defendant (3)

Timothy Miller

TERMINATED: 03/28/2017

represented by **Jeffrey A. Conrad**
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Designation: Retained

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ATTORNEY TO BE NOTICED

Pending Counts

CONSPIRACY TO DEFRAUD
THE UNITED STATES
(1)

18:371.F CONSPIRACY TO
DEFRAUD THE UNITED
STATES
(1s)

18:1204.F INTERNATIONAL
PARENTAL KIDNAPPING

Disposition

Deft is committed to the custody of the Bureau of Prisons for a term of time served; the cost of incarceration fee is waived. Upon release from imprisonment, Deft shall be placed on supervised release for a term of 1 year with standard and special conditions. Since the instant offense occurred after 9/13/1994, and it is not related to illegal substances, and Deft does not have a history of substance abuse problems, the mandatory requirement for drug testing is waived. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. While on supervised release, Deft's travel is restricted to the State of Pennsylvania. No fine. Deft to pay \$100.00 mandatory assessment, due immediately. The Court grants the Govt's oral motion to dismiss Count 2 of the Superseding Indictment in 14-CR-175 as to this Deft.

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(2)

Highest Offense Level (Opening)

Felony

Terminated Counts

18:1204.F INTERNATIONAL PARENTAL KIDNAPPING and 2 (2s)

Disposition

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition

Plaintiff

USA

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TERMINATED: 07/20/2016
Designation: government attorney

Date Filed	#	Docket Text
09/19/2014	<u>1</u>	INDICTMENT as to Lisa Miller (1) count(s) 1, 2, Philip Zodhiates (2) count(s) 1, 2, Timothy Miller (3) count(s) 1, 2. (DZ) (Entered: 09/19/2014)

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09/19/2014	<u>2</u>	TEXT ORDER OF REFERRAL Hon. Jeremiah J. McCarthy, United States Magistrate Judge, is hereby designated to act in this case as follows:All pre-trial matters in this case are referred to the above-named United States Magistrate Judge, including all pre-trial matters that a Magistrate Judge may hear and determine pursuant to 28 U.S.C. Section 636(b)(1)(A), and those which a Magistrate Judge may hear and thereafter file a report and recommendation for disposition pursuant to Section 636(b)(1)(B).All procedural aspects of matters properly before the Magistrate Judge under this Order, including scheduling and the filing of briefs or other supporting material, shall be determined by the Magistrate Judge.All motions or applications shall be filed with the Clerk and made returnable before the Magistrate Judge. IT IS SO ORDERED. Signed by Hon. Richard J. Arcara on 9/19/14.(DZ) (Entered: 09/19/2014)
11/13/2014	<u>7</u>	NOTICE OF ATTORNEY APPEARANCE: Laurence D. Behr appearing for Timothy Miller <i>as local counsel to Jeffrey Conrad, Esq.</i> (Behr, Laurence) (Entered: 11/13/2014)
11/14/2014	<u>8</u>	MOTION for Leave to Appear Pro Hac Vice Pro Hac Vice Attorney: Jeffrey Conrad. by Timothy Miller as to Lisa Miller, Philip Zodhiates, Timothy Miller. (Pro Hac Admission Fee Paid - Receipt No. 0209-2146585) (Attachments: # <u>1</u> Affidavit Sponsor affidavit, # <u>2</u> Exhibit Attorney's Oath, # <u>3</u> Errata Oath of Office, # <u>4</u> Exhibit ECF data form)(Behr, Laurence) Modified to add receipt number on 12/4/2014 (CMD). (Entered: 11/14/2014)
11/17/2014	<u>9</u>	Sponsoring Affidavit of Laurence D. Behr in support of <u>8</u> Motion for Leave to Appear Pro Hac Vice : Attorney Jeffrey Conrad as to defendants Lisa Miller, Philip Zodhiates, Timothy Miller. (DAZ) (Entered: 11/17/2014)
11/17/2014	<u>11</u>	NOTICE OF ATTORNEY APPEARANCE Kathleen Ann Lynch appearing for USA. <i>NOTICE OF ATTORNEY APPEARANCE Paul J. Van de Graaf</i> (Lynch, Kathleen) (Entered: 11/17/2014)
11/17/2014	<u>12</u>	TEXT ORDER as to Philip Zodhiates (2) : With good cause shown and the consent of all parties, the Motion 10 to Adjourn the March 17, 2015 Oral Argument is granted. Oral Argument is rescheduled for March 24, 2015 at 2:00 p.m. SO ORDERED. Issued by Hon. Jeremiah J. McCarthy on 11/6/13.(DAZ) (Entered: 11/17/2014)
12/03/2014	<u>15</u>	NOTICE OF ATTORNEY APPEARANCE Paul J. Van De Graaf appearing for USA. (Van De Graaf, Paul) (Entered: 12/03/2014)
12/04/2014		E-Filing Notification as to Defendant, Timothy Miller: <u>8</u> MOTION for Leave to Appear Pro Hac Vice. ACTION REQUIRED: Please file an Attorney Database Form for Jeffrey A. Conrad, Esq. which can be found on our website at: http://www.nywd.uscourts.gov . Filer please use the "continuation of exhibit" event to file this document and link it to the motion. (CMD) (Entered: 12/04/2014)
12/04/2014		Attorney update in case as to Timothy Miller. Attorney Jeffrey A. Conrad for Timothy Miller added. (CMD) (Entered: 12/04/2014)
12/04/2014	<u>16</u>	CONTINUATION OF EXHIBITS by Lisa Miller, Philip Zodhiates, Timothy Miller to <u>8</u> MOTION for Leave to Appear Pro Hac Vice Pro Hac Vice Attorney: Jeffrey Conrad. (Behr, Laurence) (Entered: 12/04/2014)
12/05/2014	<u>17</u>	TEXT ORDER as to Lisa Miller (1), Philip Zodhiates (2), Timothy Miller (3): The motion <u>8</u> of Jeffrey A. Conrad, Esq. for <i>pro hac vice</i> admission is granted. SO ORDERED. Issued by Hon. Jeremiah J. McCarthy on 12/5/14.(DAZ) (Entered: 12/05/2014)
04/24/2015	<u>41</u>	SUPERSEDING INDICTMENT as to Lisa Miller (1) count(s) 1s, 2s, Philip Zodhiates (2) count(s) 1s, 2s, Timothy Miller (3) count(s) 1s, 2s. (DLC) (Entered: 04/27/2015)
05/29/2015	<u>47</u>	MOTION for Hearing by Timothy Miller. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Text of Proposed Order, # <u>3</u> Memorandum in Support)(Conrad, Jeffrey) (Entered: 05/29/2015)
05/29/2015	<u>48</u>	MOTION to Dismiss by Timothy Miller. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Text of Proposed Order, # <u>3</u> Memorandum in Support, # <u>4</u> Exhibit 1, # <u>5</u> Exhibit 2, # <u>6</u> Exhibit 3, # <u>7</u> Exhibit 4, # <u>8</u> Exhibit 5, # <u>9</u> Exhibit 5.1, # <u>10</u> Exhibit 6, # <u>11</u> Exhibit 7, # <u>12</u> Exhibit 8, # <u>13</u> Exhibit 9, # <u>14</u> Exhibit 10, # <u>15</u> Exhibit 11, # <u>16</u> Exhibit 12.1, #

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		<u>17</u> Exhibit 12.2, # <u>18</u> Exhibit 12.3)(Conrad, Jeffrey) (Entered: 05/29/2015)
06/01/2015	<u>49</u>	TEXT ORDER as to Timothy Miller: A conference to discuss a briefing schedule for defendant Timothy Miller's pending motions [47, 48] is scheduled for June 4, 2015 at 11:00 a.m. Out-of-town counsel may participate by telephone upon advance notice to chambers. The court will initiate the call. SO ORDERED. Issued by Hon. Jeremiah J. McCarthy on 6/1/15.(DAZ) (Entered: 06/01/2015)
06/04/2015	<u>50</u>	Minute Entry for proceedings held before Hon. Jeremiah J. McCarthy:Status Conference as to Timothy Miller held on 6/4/2015. Briefing schedule set for pending motions [47, 48]. Government's response to both motions shall be filed by 7/20/15; any reply by 8/31/15. Oral argument set for 9/9/15 at 2:00 P.M. Out-of-town counsel may participate by telephone upon advance notice to chambers. APPEARANCES: AUSA K. Lynch, P. Van De Graaf (via telephone); L. Behr (via telephone) and J. Conrad (via telephone) for deft Miller; Miller not present; J. Grable for co-deft P. Zodhiates. (FTR GOLD) (DAZ) (Entered: 06/04/2015)
06/04/2015		CALENDAR EVENT as to Timothy Miller: Oral Argument set for 9/9/2015 at 02:00 PM before Hon. Jeremiah J. McCarthy. (DAZ) (Entered: 06/04/2015)
07/20/2015	<u>60</u>	RESPONSE to Motion by USA as to Timothy Miller re <u>48</u> MOTION to Dismiss (<i>Government's Response to Defendant's Notice of Motion</i>) (Lynch, Kathleen) (Entered: 07/20/2015)
08/31/2015	<u>64</u>	REPLY TO RESPONSE to Motion by Timothy Miller re <u>48</u> MOTION to Dismiss (Attachments: # <u>1</u> Certificate of Service)(Conrad, Jeffrey) (Entered: 08/31/2015)
09/09/2015	<u>65</u>	Minute Entry for proceedings held before Hon. Jeremiah J. McCarthy:Oral Argument held on 9/9/2015 re <u>47</u> MOTION for a Hearing by Timothy Miller and <u>48</u> MOTION to Dismiss by Timothy Miller. Decision in due course. APPEARANCES: AUSA Kathleen A. Lynch; Jeffrey A. Conrad for defendant. Defendant waives his appearance. (FTR GOLD) (DAZ) (Entered: 09/09/2015)
09/15/2015	<u>66</u>	REPORT AND RECOMMENDATION as to Philip Zodhiates re 19 MOTION to Suppress and 51 Supplemental MOTION to Suppress <i>and Dismiss the Indictment</i> . Objections to R&R due by 10/2/2015. Signed by Hon. Jeremiah J. McCarthy on 9/15/15.(DAZ) (Entered: 09/15/2015)
09/17/2015	<u>67</u>	Consent MOTION for Extension of Time to File <i>Objections to Report and Recommendation</i> by Philip Zodhiates as to Lisa Miller, Philip Zodhiates, Timothy Miller. (Grable, James) (Entered: 09/17/2015)
10/06/2015	<u>69</u>	REPORT AND RECOMMENDATION as to Timothy Miller re <u>47</u> MOTION for Hearing , <u>48</u> MOTION to Dismiss . Objections to R&R due by 10/23/2015. Signed by Hon. Jeremiah J. McCarthy on 10/6/15.(DAZ) (Entered: 10/06/2015)
10/23/2015	<u>71</u>	RESPONSE in Opposition by Timothy Miller re <u>69</u> REPORT AND RECOMMENDATIONS as to Timothy Miller re <u>48</u> MOTION to Dismiss , <u>47</u> MOTION for Hearing Objections due fourteen days from receipt. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Affidavit Re: Argument, # <u>3</u> Certificate of Service)(Conrad, Jeffrey) (Entered: 10/23/2015)
11/02/2015	<u>73</u>	MEMORANDUM/BRIEF (<i>Government's Response to Defendant's Objections to Magistrate Judge McCarthy's Report and Recommendation</i>) by USA as to Timothy Miller (Lynch, Kathleen) (Entered: 11/02/2015)
11/05/2015	<u>74</u>	TEXT ORDER as to Timothy Miller: Defendant has filed objections (docketed as "Response in Opposition") <u>71</u> to Magistrate Judge McCarthy's Report and Recommendation <u>69</u> . Response papers <u>73</u> have been filed. Reply papers shall be filed on or before November 17, 2015. Oral argument is scheduled for December 10, 2015 at 9:00 AM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on 11/5/15.(LAS) (Entered: 11/05/2015)
11/18/2015	<u>77</u>	MOTION to Adjourn Oral Argument by Timothy Miller. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order)(Conrad, Jeffrey) (Entered: 11/18/2015)
11/25/2015	<u>78</u>	TEXT ORDER as to defendants, Philip Zodhiates (2) and Timothy Miller (3). Defendant Miller filed <u>77</u> Motion to Adjourn Oral Argument scheduled for December

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		10, 2015 as to Objections filed by defendant Miller to Report and Recommendation. The motion is granted. Oral Argument is adjourned to December 21, 2015 at 2:30 PM before Hon. Richard J. Arcara. The December 10, 2015 Oral Argument of defendant Zodhiates is also adjourned by the Court to December 21, 2015 at 2:30 PM as to the Objections filed by defendant Zodhiates to the Report and Recommendation. SO ORDERED. Issued by Hon. Richard J. Arcara on November 25, 2015.(DJD) (Entered: 11/25/2015)
01/20/2016	<u>79</u>	ORDER as to Timothy Miller: Magistrate Judge Jeremiah J. McCarthy's Report and Recommendation <u>69</u> is adopted in its entirety. The Court will not entertain defendant Miller's pretrial motions until he returns to the United States and is arraigned in this case. SO ORDERED. Signed by Hon. Richard J. Arcara on 1/20/16.(LAS) (Entered: 01/20/2016)
07/20/2016	<u>83</u>	NOTICE OF ATTORNEY APPEARANCE Michael DiGiacomo appearing for USA. (DiGiacomo, Michael) (Entered: 07/20/2016)
07/20/2016		Attorney update in case as to Lisa Miller, Philip Zodhiates, Timothy Miller. Attorney Kathleen Ann Lynch terminated. (KLH) (Entered: 07/21/2016)
08/31/2016		Minute Entry for proceedings held 8/31/2016 before Hon. Richard J. Arcara as to Defts, Philip Zodhiates (2) and Timothy Miller (3). Status Conference is held as to the extradition of defendant Timothy Miller and the impact on the 9/20/2016 trial date of defendant Philip Zodhiates. The Govt reports that Deft, Timothy Miller was arrested in Nicaragua based on the Red Notice warrant that was filed. The Govt further reports that Deft Timothy Miller could be brought to the United States as early as within 10 days. Nicaragua would deport Timothy Miller as soon as the U.S. Marshals Service is prepared to take Mr. Miller. The Govt raises the issue as to whether Deft Timothy Miller would proceed to trial with Deft Zodhiates or whether a severance would be filed. The Court holds these issues in abeyance pending a further Status Conference on 9/15/2016 at 9:00 AM. The Govt anticipates its proof to last four or five days. The Zodhiates defense anticipates three days and 17 defense witnesses to present its case. Appearances: Govt – Michael DiGiacomo (in person) and Paul Van De Graaf (by telephone); Deft (Zodhiates) – James Grable (in person) and Robert Hemley (by telephone); Deft (Timothy Miller) – Jeffrey Conrad (by telephone) (Court Reporter Megan Pelka.)(DJD) (Entered: 09/13/2016)
09/15/2016		Minute Entry for proceedings held 9/15/2016 before Hon. Richard J. Arcara as to Defts, Philip Zodhiates (2) and Timothy Miller (3). Status Conference is held. The Govt reports that Deft Timothy Miller has not yet arrived in the United States from Nicaragua. As this week has been a holiday week in Nicaragua, the Govt does not anticipate Deft Miller's arrival in the United States this week. The Govt suggests to the Court that there would be efficiencies if Defts Zodhiates and Timothy Miller proceeded to trial together, however, the Govt projects that it would be months before both Defts would be trial ready given Deft, Miller's pretrial posture. The Govt understands Deft, Zodhiates' desire to proceed to trial alone as previously scheduled for 9/20/2016. Deft Zodhiates orally moves for severance. Oral Argument is held. The Court orally grants Deft Zodhiates' oral motion for severance. Appearances: Govt – Michael DiGiacomo and Paul Van De Graaf; Deft (Zodhiates) – James Grable and Robert Hemley (via telephone) (without Deft); Deft (Timothy Miller) – No Appearance (Court Reporter Megan Pelka.)(DJD) (Entered: 09/15/2016)
09/15/2016	103	TEXT ORDER as to Defendants Lisa Miller (1), Philip Zodhiates (2) and Timothy Miller (3). Pursuant to Federal Rule of Criminal Procedure 14(a), and for the reasons stated on the record during proceedings held on September 15, 2016, the Court severs Defendant Philip Zodhiates from Defendant Timothy Miller. Further, pursuant to Rule 14(a), the Court sua sponte severs Defendant Philip Zodhiates from Defendant Lisa Miller. Given the possibility that Defendant Lisa Miller is a fugitive who might never be arrested and extradited, postponing Defendant Zodhiates' trial until Defendant Lisa Miller's trial (if Lisa Miller's trial were to ever occur) would substantially prejudice Defendant Zodhiates. SO ORDERED. Issued by Hon. Richard J. Arcara on September 15, 2016.(DJD) (Entered: 09/15/2016)
09/26/2016	<u>121</u>	Rule 5(c)(3) Documents Received as to Timothy Miller. (KM) (Entered: 09/27/2016)

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09/27/2016		*** MOTIONS TERMINATED *** [20, 27, 32, 47, 48, 66, 67, 69] as to Lisa Miller (1), Timothy Miller (3), Philip Zodhiates (2) resolved. (DAZ) (Entered: 09/27/2016)
09/28/2016	<u>122</u>	Proposed Jury Instructions by Philip Zodhiates as to Lisa Miller, Philip Zodhiates, Timothy Miller (Grable, James) (Entered: 09/28/2016)
09/29/2016	<u>123</u>	MOTION to Exclude <i>NOTICE OF MOTION WITH AFFIDAVIT</i> by USA as to Timothy Miller. (DiGiacomo, Michael) (Entered: 09/29/2016)
09/30/2016	124	TEXT ORDER as to Timothy Miller : Consideration of the government's motion to exclude time <u>123</u> will be deferred until defendant's arraignment to give his counsel (either retained or appointed) an opportunity to be heard. To the extent that time is not otherwise currently excluded from Speedy Trial Act calendar, it remains excluded pursuant to 18 U.S.C. Sections 3161(h)(1)(D) and 3161(h)(1)(H) pending resolution of the government's motion <u>123</u> . SO ORDERED. Issued by Hon. Jeremiah J. McCarthy on 9/30/16.(DAZ) (Entered: 09/30/2016)
10/12/2016	126	TEXT ORDER: the arraignment of defendant Timothy Miller is scheduled for October 12, 2016, at 2:00 p.m., in U.S. Courthouse, 2 Niagara Square, Buffalo, N.Y. 14202 before Hon. Richard J. Arcara. Local counsel for defendant shall appear in person. Counsel shall be prepared to discuss entry of a schedule regarding pending motions, and whether additional motions will be filed, as well as any other matters that will permit an earlier trial. SO ORDERED by Hon. Richard J. Arcara on October 12, 2016. (WJG) (Entered: 10/12/2016)
10/14/2016		Set/Reset Hearings as to Timothy Miller: Status Conference set for 11/30/2016 12:30 PM before Hon. Richard J. Arcara. (DJD) (Entered: 11/23/2016)
10/14/2016		Minute Entry for proceedings held 10/14/2016 before Hon. Richard J. Arcara as to Deft, Timothy Miller (3). Arraignment is held as to the Superseding Indictment. Retained counsel, Jeffrey Conrad appears with Deft. The Deft waives the reading of the Superseding Indictment. The Govt summarizes the Superseding Indictment charges. The Court enters a plea of not guilty from the Deft as to all counts of the Superseding Indictment. Deft Timothy Miller waives a detention hearing and consents to be detained, however, he reserves the filing of possible motion for bail in the future. Deft's motion to dismiss remains pending. The parties request a status conference 30 days out to allow time to engage in voluntary discovery and explore a possible pretrial disposition. The Govt will provide the defense with the discovery on disk by next week. USMS informs the Court that Deft will be housed at the Niagara County Jail over the weekend and then transported to the Northeast Ohio Correctional Center. Defense counsel requests that Deft be detained closer to his office. The Court recommends that USMS detain Deft in the Steuben County Jail, if possible. Status Conference is scheduled for 11/30/2016 at 12:30 PM. Time is excluded; Govt to submit a Speedy Trial Act Order. Appearances: Govt – Michael DiGiacomo; Deft – Jeffrey Conrad (with Deft); USPO – Melissa Linton appearing for Brian Mamizuka (Court Reporter Megan Pelka.)(DJD) (Entered: 11/29/2016)
10/17/2016	<u>129</u>	ORDER OF DETENTION as to Timothy Miller. Signed by Hon. Richard J. Arcara on 10/14/16.(LAS) (Entered: 10/17/2016)
11/30/2016	<u>140</u>	PLEA AGREEMENT as to Timothy Miller. (KM) (Entered: 12/01/2016)
11/30/2016		Set/Reset Hearings as to Timothy Miller: Sentencing set for 3/23/2017 12:30 PM before Hon. Richard J. Arcara. (DJD) (Entered: 12/06/2016)
11/30/2016		Minute Entry for proceedings held 11/30/2016 before Hon. Richard J. Arcara as to Deft, Timothy Miller (3). Change of Plea proceeding is held. Deft pleads guilty to Count 1 of the Superseding Indictment. Deft is remanded to the custody of the U.S. Marshals Service pending sentencing. The following schedule is established for the submission of sentencing papers: initial Presentence Investigation Report due by 2/6/2017; Statement with Respect to Sentencing Factors, objections and/or motions, including 5K1.1 motion, government notice not to file 5K1.1 motion, or government motion for extension of time to file 5K1.1 motion if applicable, due by 3/2/2017; notice by the defendant of government failure to file 5K1.1 motion, if applicable, due by 3/7/2017 ; responses to objections and/or motions due by 3/9/2017; character letters and/or sentencing memorandum in support of the defendant due by 3/9/2017; motions to adjourn sentencing due by 3/13/2017; final Presentence Investigation Report due by 3/16/2017; government's response papers to legal arguments in defendant's sentencing

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		memorandum due by 3/16/2017. Sentencing is scheduled for 3/23/2017 at 12:30 PM before Hon. Richard J. Arcara. Appearances: Govt – Michael DiGiacomo and Paul Van De Graaf; Deft – Jeffrey Conrad; USPO – No appearance –PROBATION NOTIFIED OF PLEA– (Court Reporter Megan Pelka.)(DJD) (Entered: 12/06/2016)
11/30/2016	<u>141</u>	TEXT ORDER as to defendant, Timothy Miller (3). The following schedule is established for the submission of sentencing papers: initial Presentence Investigation Report due by 2/6/2017; Statement with Respect to Sentencing Factors, objections and/or motions, including 5K1.1 motion, government notice not to file 5K1.1 motion, or government motion for extension of time to file 5K1.1 motion if applicable, due by 3/2/2017; notice by the defendant of government failure to file 5K1.1 motion, if applicable, due by 3/7/2017 ; responses to objections and/or motions due by 3/9/2017; character letters and/or sentencing memorandum in support of the defendant due by 3/9/2017; motions to adjourn sentencing due by 3/13/2017; final Presentence Investigation Report due by 3/16/2017; government's response papers to legal arguments in defendant's sentencing memorandum due by 3/16/2017. SO ORDERED. Issued by Hon. Richard J. Arcara on November 30, 2016.(DJD) (Entered: 12/06/2016)
12/16/2016	<u>143</u>	Sealed Document as to Lisa Miller, Philip Zodhiates, Timothy Miller. (KM) (Entered: 12/20/2016)
01/19/2017	<u>149</u>	Arrest Warrant Returned Executed on 10/14/2016 in case as to Timothy Miller. (KM) (Entered: 01/19/2017)
03/02/2017	<u>165</u>	MOTION by USA as to Timothy Miller. (DiGiacomo, Michael) (Entered: 03/02/2017)
03/02/2017	<u>166</u>	STATEMENT WITH RESPECT TO SENTENCING FACTORS by USA as to Timothy Miller (DiGiacomo, Michael) (Entered: 03/02/2017)
03/17/2017	<u>180</u>	SENTENCING MEMORANDUM by Timothy Miller (Conrad, Jeffrey) (Entered: 03/17/2017)
03/21/2017	<u>181</u>	MEMORANDUM/BRIEF <i>GOVERNMENT'S RESPONSE TO TIMOTHY MILLER'S SENTENCING MEMORANDUM</i> by USA as to Timothy Miller (Attachments: # <u>1</u> Exhibit Attachment A)(DiGiacomo, Michael) (Entered: 03/21/2017)
03/23/2017		Minute Entry for proceedings held 3/23/2017 before Hon. Richard J. Arcara as to Deft, Timothy Miller (3), Count(s) 1 (Superseding Indictment). Sentencing is held. The Court accepts the terms and conditions of the plea agreement and the plea of guilty. The Presentence Investigation Report is placed in the record under seal. If an appeal is filed, counsel on appeal will be permitted access to the sealed report, except that counsel on appeal will not be permitted access to the recommendation section. Deft is committed to the custody of the Bureau of Prisons for a term of time served; the cost of incarceration fee is waived. Upon release from imprisonment, Deft shall be placed on supervised release for a term of 1 year with standard and special conditions. Since the instant offense occurred after 9/13/1994, and it is not related to illegal substances, and Deft does not have a history of substance abuse problems, the mandatory requirement for drug testing is waived. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. While on supervised release, Deft's travel is restricted to the State of Pennsylvania. No fine. Deft to pay \$100.00 mandatory assessment, due immediately. The Court grants the Govt's oral motion to dismiss Count 2 of the Superseding Indictment in 14–CR–175 as to this Deft. Appearances: Govt – Paul Van De Graaf; Deft – Jeffrey Conrad (with Deft); USPO – Tina Blackman (Court Reporter Megan Pelka.)(DJD) (Entered: 03/27/2017)
03/27/2017	<u>189</u>	Sealed Document (KM) (Entered: 03/31/2017)
03/27/2017	<u>190</u>	PRESENTENCE INVESTIGATION REPORT (Sealed) as to Timothy Miller. (KM) (Entered: 03/31/2017)
03/28/2017	<u>191</u>	JUDGMENT as to Timothy Miller (3), Additional certified copies forwarded to USPO, USM, US Attorney, Debt Collection, Financial Department. Signed by Hon. Richard J. Arcara on 3/27/2017.(KM) (Entered: 03/31/2017)