State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: July 2, 2026 CR-24-0867

THE PEOPLE OF THE STATE OF NEW YORK,
Respondent,
v MEMORANDUM AND ORDER

MARY JANE HOLLMAN,
Appellant.

Calendar Date: February 18, 2026

Before: Reynolds Fitzgerald, J.P., Ceresia, Fisher, Powers and Mackey, JJ.

Paul J. Connolly, Delmar, for appellant.

Brian P. Conaty, District Attorney, Monticello (*Michael J. Puma* of counsel), for respondent.

Ceresia, J.

Appeal from a judgment of the County Court of Sullivan County (James Farrell, J.), rendered September 30, 2022, upon a verdict convicting defendant of the crimes of kidnapping in the second degree and endangering the welfare of a child.

Following a joint trial, defendant and her daughter, the codefendant, were convicted of kidnapping in the second degree and endangering the welfare of a child stemming from a months-long search for the codefendant's toddler child, which ultimately led to their discovery in the State of Washington, where they had been without the consent of and unbeknownst to the child's father. Defendant was sentenced to a prison term of five years, to be followed by 2½ years of postrelease supervision, on the

kidnapping conviction and to a lesser concurrent jail term on the endangering the welfare of a child conviction. Defendant appeals.[1]

Defendant claims that her convictions are supported by legally insufficient evidence and, likewise, that the verdicts with respect thereto are against the weight of the evidence. To the extent that defendant's legal sufficiency argument pertains to her affirmative defense, that aspect of her argument is unpreserved as she failed make any argument to that effect in her motion for trial order of dismissal (*see People v Gomez*, 244 AD3d 1382, 1382 [3d Dept 2025], *lv denied* 45 NY3d 936 [2026]; *People v Gardner*, 243 AD3d 955, 956 [3d Dept 2025]). However, the balance of her legal sufficiency challenge is properly before us.

"In determining whether defendant's convictions are supported by legally sufficient evidence, we view the facts in the light most favorable to the People and examine whether there is a valid line of reasoning and permissible inferences from which a rational jury could have found the elements of the crime proved beyond a reasonable doubt" (*People v Reinfurt*, 241 AD3d 1015, 1017 [3d Dept 2025] [internal quotation marks and citations omitted], *lv denied* 44 NY3d 1067 [2026]; *see People v Williams*, 43 NY3d 1030, 1032 [2025]). "When undertaking a weight of the evidence review, we must first determine whether, based on all the credible evidence, a different finding would not have been unreasonable and then, if not, weigh the relative probative force of conflicting testimony and the relative strength of conflicting inferences that may be drawn from the testimony to determine if the verdict is supported by the weight of the evidence" (*People v James*, 245 AD3d 1102, 1104-1105 [3d Dept 2026] [internal quotation marks and citations omitted], *lv denied* 45 NY3d 946 [2026]; *see People v Scott*, 219 AD3d 1572, 1573 [3d Dept 2023]).

As relevant here, "[a] person is guilty of kidnapping in the second degree when he [or she] abducts another person" (Penal Law § 135.20). To " '[a]bduct' means to restrain a person with intent to prevent his [or her] liberation by . . . secreting or holding him [or her] in a place where he [or she] is not likely to be found" (Penal Law § 135.00 [2] [a]), and to " '[r]estrain' means to restrict a person's movements intentionally and unlawfully in such [a] manner as to interfere substantially with his [or her] liberty by moving him [or her] from one place to another . . . without consent and with knowledge that the restriction is unlawful" (Penal Law § 135.00 [1]). When a child is under the age of 16,

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[1] The codefendant similarly appeals from her judgment of conviction (*People v Four-Rosenbaum*, ___ AD3d ___ [3d Dept 2026] [decided herewith]).

such child is restrained without consent if "the parent, guardian or other person or institution having lawful control or custody of him [or her] has not acquiesced in the movement or confinement" (Penal Law § 135.00 [1] [b]). "In any prosecution for kidnapping, it is an affirmative defense that (a) the defendant was a relative of the person abducted, and (b) his [or her] sole purpose was to assume control of such person" (Penal Law § 135.30). Moreover, "[a] person is guilty of endangering the welfare of a child when," as pertinent here, "[h]e or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than [17] years old" (Penal Law § 260.10 [1]).

Inasmuch as the evidence adduced during this joint trial has been heavily detailed in the codefendant's related appeal (*see People v Four-Rosenbaum*, ___ AD3d ___ [3d Dept 2026] [decided herewith]), we will not reiterate this proof in the context of this decision. With respect to defendant's conviction of kidnapping in the second degree, we find the evidence to be legally sufficient (*see People v White*, 231 AD3d 1429, 1432 [3d Dept 2024], *lv denied* 42 NY3d 1082 [2025]; *People v Petit*, 230 AD3d 1337, 1339 [2d Dept 2024], *lv denied* 42 NY3d 1054 [2024]; *People v Barnette*, 150 AD3d 1136, 1136-1137 [2d Dept 2017], *lv denied* 29 NY3d 1123 [2017]). The proof elicited at trial established that the child, who was of such an age that she could not independently control her own movements, was transported out of state by defendant and the codefendant. They did not notify anyone as to their whereabouts and employed methods that signal an intent to remain untraceable – such as utilizing burner phones, withdrawing large amounts of cash and paying for hotel stays with said cash to avoid the use of credit cards. Viewed in the light most favorable to the People, this proof demonstrates that defendant secreted the child in a place where she was not likely to be found and that, recognizing that the child was under the age of 16, defendant did so without consent of the child's father. It is true that the codefendant, as a custodial parent, seemingly acquiesced to the restraint. Nevertheless, the totality of their actions demonstrates that the codefendant's "conduct [was] so obviously and unjustifiably . . . harmful to the child as to be inconsistent with the idea of lawful custody" and, therefore, had reached "a point where even a custodial parent's control over a child's movements is unlawful, and indeed obviously so" (*People v Leonard*, 19 NY3d 323, 328, 329 [2012]).

Due to the circumstantial nature of the proof presented, a different verdict would not have been unreasonable. That said, viewing the evidence in a neutral light and deferring to the jury's credibility determinations, the weight of the evidence supports the elements of kidnapping in the second degree for the same reasons as outlined above (*see People v Cole*, 140 AD3d 1183, 1183 [2d Dept 2016], *lv denied* 28 NY3d 970 [2016];

People v Leonard, 83 AD3d 1113, 1115 [3d Dept 2011], *affd* 19 NY3d 323 [2012]; *cf. People v Hall*, 247 AD3d 1254, 1256-1257 [3d Dept 2026]). Notwithstanding this conclusion, we must determine whether defendant established the affirmative defense contained in Penal Law § 135.30 and, flowing therefrom, whether the jury's rejection of the affirmative defense is supported by the weight of the evidence.[2] As the child's grandmother, defendant was a "relative" under the terms of the statute (Penal Law § 135.30 [a]; *see* Penal Law § 135.00 [3]). Thus, she was required to demonstrate by a preponderance of the evidence that that she took the child for the sole purpose of assuming control over her (*see* Penal Law §§ 25.00 [2]; 135.30). A relative who takes a child with the purpose of something more than custodial control – such as "ransom, extortion or terrorization" of the other custodian – will still be guilty of kidnapping (William C. Donnino, Prac Commentaries, McKinney's Cons Laws of NY, Penal Law § 135.00 [internal quotation marks and citation omitted]; *see People v Leonard*, 19 NY3d at 327).

As set forth in more depth in the related appeal (*see People v Four-Rosenbaum*, ___ AD3d ___), there was ample evidence before the jury lending itself to a finding that defendant and the codefendant, in absconding with the child, were at least in part motivated by a desire to obtain retribution against the father for his claimed infidelity, such that the jury could reasonably further resolve that defendant failed to prove that her *sole* purpose in taking the child was to merely assume control over her (*see* Penal Law § 135.30). Accordingly, while the proof could arguably support other impetuses as well – such as defendant believing that she needed to take action to save the child from unsubstantiated sexual abuse or from being possessed by demons – we are satisfied that, upon consideration of the evidence in a neutral light and deferring to the jury's factual and credibility determinations, its rejection of defendant's affirmative defense was not against the weight of the evidence (*cf. People v Agan*, 207 AD3d 861, 867 [3d Dept 2022], *lvs denied* 38 NY3d 1186 [2022], 39 NY3d 939 [2022]; *People v Lyons*, 200 AD3d 1222, 1225-1226 [3d Dept 2021], *lv denied* 37 NY3d 1162 [2022]).

Moving on to defendant's conviction of endangering the welfare of a child, upon our review of the record, we find that it is supported by legally sufficient evidence (*see People v Hitchcock*, 98 NY2d 586, 590-592 [2002]; *People v Stanley*, 246 AD3d 1218, 1221 [3d Dept 2026]; *People v Engelsen*, 92 AD3d 1289, 1290 [4th Dept 2012]).

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[2] A challenge to the weight of the evidence bears no preservation requirement, such that we may review the issue despite defendant's failure to move for a trial order of dismissal on this basis (*see People v Noble*, 244 AD3d 1499, 1500 [3d Dept 2025]).

Additionally, although a contrary result may not have been unreasonable, the verdict is not against the weight of the evidence (*see People v Stanley*, 246 AD3d at 1221-1222; *People v Engelsen*, 92 AD3d at 1290).

Next, defendant contends that the People failed to establish territorial jurisdiction. "The general rule in New York is that, for the State to have criminal jurisdiction, either the alleged conduct or some consequence of it must have occurred within the State" (*People v McLaughlin*, 80 NY2d 466, 471 [1992] [citations omitted]; *accord People v Callahan*, 186 AD3d 943, 945 [3d Dept 2020]). Territorial jurisdiction was demonstrated in connection with both crimes. Regarding kidnapping in the second degree, as explained in the related appeal (*see People v Four-Rosenbaum*, ___ AD3d at ___), there was proof indicating that defendant and the codefendant turned against the father and took the child out of state as a result. This evidence was sufficient to establish both that defendant manifested her intent to abduct the child in New York, which is an element of the crime (*see* CPL 20.20 [1] [a]; *People v Kassebaum*, 95 NY2d 611, 621 [2001], *cert denied* 532 US 1069 [2001]; *People v Callahan*, 186 AD3d at 945), and that she conspired to commit the crime in New York (*see* CPL 20.20 [1] [c]). As for endangering the welfare of a child, this crime operates as a continuing course of conduct and the evidence demonstrated that the conduct in question began in New York (*see People v Zorrilla*, 242 AD3d 497, 498 [1st Dept 2025]; *People v Bernardo*, 84 AD3d 1717, 1718 [4th Dept 2011], *lv denied* 17 NY3d 813 [2011]). We reject defendant's related claim that counsel was ineffective for failing to request a territorial jurisdiction jury instruction or to object to County Court's inaccurate statement on the subject during summations. Such actions on counsel's part would have had little to no chance of success, given that territorial jurisdiction was established by the trial evidence (*see People v Carvajal*, 14 AD3d 165, 173 [1st Dept 2004], *affd* 6 NY3d 305 [2005]; *People v Paige*, 289 AD2d 872, 873-874 [3d Dept 2001], *lv denied* 97 NY2d 759 [2002]).

Defendant's remaining claim of ineffective assistance of counsel, as well as her argument concerning impairment of the integrity of the grand jury, have been reviewed and found to be unavailing.

Reynolds Fitzgerald, J.P., and Fisher, J., concur.

Powers, J. (dissenting).

For the reasons more fully stated in *People v Four-Rosenbaum* (___ AD3d ___ [3d Dept 2026] [decided herewith]), we respectfully dissent.

Briefly, the proof adduced at trial demonstrated that defendant, titling herself a prophet, believed the child to be possessed by demons, "under a spell of witchcraft" and in need of "sav[ing]." Defendant believed the father to be at fault for these supposed moral failings because of his purported involvement with the Devil. In addition, defendant believed the father to be a pedophile who was sexually abusing the child, as well as carrying on an affair with the child's babysitter, who she dubbed a witch. Markedly, admitted at trial was a communication sent from defendant to her son in which defendant refers to the father as a "satanist" who had been "teaching [the child] doctrines of devils." According to this communication, defendant had developed "a plan" which would "be outlined" to keep the child and the codefendant – her daughter and the child's mother – "safe" from the father because, according to defendant, to "[s]ep[a]rate and control [was] his plan," "[s]o he can take [the child]." Based upon these beliefs, defendant informed her son that she, the codefendant and the child were "tucked away, safe and sound, for now" and concluded by stating that they were "staying clear" of the father and were, therefore, "out of town."

Based upon the foregoing evidence, viewed in a neutral light, we would find that defendant demonstrated that she, with the assistance of the codefendant, took the child and secreted her away from the father for the sole purpose of gaining control over the child, whose spirit she believed to be in need of saving. Contrary to the People's assertion, which the majority credits, the proof does not demonstrate that they took the child for the purpose of retribution for the father's alleged infidelity but, rather, that this was just another basis for which they believed they needed to save the child from the father. Regardless of the dearth of evidence supporting these beliefs, the proof presented at trial – principally, the communication to the son evidencing her intentions at the time of the taking – established that defendant took the child for the purpose of assuming control of her, thereby meeting the requirements of the affirmative defense by a preponderance of the evidence (*see* Penal Law § 135.30; *compare People v Leonard*, 19 NY3d 323, 327 [2012]; *see generally Vachon v Pugliese*, 931 P2d 371, 378 n 7 [Alaska 1996]). Consequently, we would find that the jury's rejection of the affirmative defense was against the weight of the evidence (*compare People v Lyons*, 200 AD3d 1222, 1226 [3d Dept 2021], *lv denied* 37 NY3d 1162 [2022]; *People v Gilley*, 163 AD3d 1156, 1157 [3d Dept 2018], *lv denied* 33 NY3d 948 [2019]), and defendant's conviction of

kidnapping in the second degree should be reversed.[1] For that reason, we respectfully dissent.

Mackey, J., concurs.

ORDERED that the judgment is affirmed.

ENTER:

Robert D. Mayberger
Clerk of the Court

[1] As detailed at length in our dissent in the companion decision in *People v Four-Rosenbaum* (___ AD3d at ___), this conclusion does not equate to a determination that the taking of the child may not have constituted a crime. Rather, the facts established at trial are largely consistent with the crime of custodial interference in the first degree (*see* Penal Law § 135.50 [1]; *People v Sharp*, 104 AD3d 1325, 1326 [4th Dept 2013], *lv denied* 21 NY3d 1009 [2013]; *People v Wyne*, 200 AD2d 779, 780 [2d Dept 1994], *lv denied* 83 NY2d 973 [1994]; *People v Morel*, 164 AD2d 677, 682 [2d Dept 1991], *lvs denied* 78 NY2d 971 [1991]; *People v S.W.*, 81 Misc 3d 299, 300-301 [Genesee County Ct 2022]; *cf. Matter of Schrotenboer v Soloff*, 74 NY2d 597, 600 [1989]). Nevertheless, defendant was not charged with that crime.