

Criminal Justice

The Israeli connection

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By: Carl Jones

The Israeli police called Zev Rosenstein public enemy No. 1. He was accused of being one of the godfathers of organized crime in Israel. Police compared him to America's greatest gangster — Al Capone. A former U.S. attorney once called him “the worst of the worst” among global drug dealers.

An Israeli national living in Tel Aviv, Rosenstein was a target of both the Drug Enforcement Administration and the U.S. attorney general's office. Rosenstein was suspected of heading a worldwide Ecstasy distribution ring and leading the second-largest drug operation in Israel. His group purportedly was responsible for the majority of Ecstasy found in the United States and Europe.

But it was in Miami that Rosenstein's international drug operations, which involved co-conspirators in Europe and Colombia, started to unravel. A deal with a Miami undercover officer led to a major Ecstasy drug bust in a New York hotel in 2001.

The bust set off a chain of events — including coded phone conversations that were secretly recorded — that led to the 2003 arrest and 2004 conviction in U.S. District Court in Miami of Shemtov Michtavi, a top Rosenstein lieutenant and friend from childhood.

As a result of the Miami information, the alleged kingpin himself, Rosenstein, has been arrested in Israel, and the United States is moving to extradite him to face charges in Miami. He is being held in a maximum security cell in Israel. He's reportedly asked for a cellmate because he says he's lonely and fears he's losing his mind. No one wants to bunk with him.

Earlier this month, however, the 20-year sentence given to Michtavi was overturned by the 11th U.S. Circuit Court of Appeals in Atlanta, and Michtavi's case was remanded for re-sentencing. The 11th Circuit panel unanimously found that U.S. District Judge Ursula Ungaro-Benages improperly sentenced Michtavi in September 2004 for distribution of MDMA, also known as Ecstasy.

Under last January's landmark U.S. Supreme Court ruling, *U.S. v. Booker*, a person cannot be sentenced based on facts not found to be true by a judge or jury. Judges also cannot sentence defendants using the federal sentencing guidelines as mandatory. They can only calculate what the guidelines recommend, and then depart upward or downward from there.

In Michtavi's case, his sentence was based on 800,000 tablets found in a New York stash house. But that volume was never charged in his indictment and never determined by the jury. Michtavi



argued that he should have only been sentenced based on the 65,000 tablets that could be connected to him through two co-conspirators.

The 11th Circuit agreed with Michtavi, an Israeli national arrested while living in Bulgaria, on that Sixth Amendment issue. The panel also found Judge Ungaro-Benages improperly sentenced Michtavi because she used the federal sentencing guidelines as mandatory rather than advisory, as the U.S. Supreme Court required.

Based on calculations by the defense and the appellate court, Michtavi should have faced a maximum sentence of 15 years and 8 months. But now that the sentencing guidelines are no longer mandatory under Booker, Michtavi could face more than 15 years or less than the minimum of 12 years and 7 months.

In his appeal, Michtavi also argued that prosecutors improperly introduced Israeli newspaper articles during trial to support a co-conspirator's claim that the two men spoke about the drug business in code during a taped phone call.

Michtavi called that evidence hearsay. But the 11th Circuit found that the newspaper articles were not used to prove the underlying crime, only to back up the credibility of the co-conspirator's claim that they spoke in code.

Michtavi's defense lawyer at trial, Bruce Lehr of Lehr & Gasalla in Miami, said in an interview earlier this month that he had not yet talked to his client but was "sure he will be thrilled" with the 11th Circuit ruling. Ira N. Loewy, a partner at Bierman Shohat & Loewy in Miami, handled the appeal.

The U.S. attorney's office in Miami and the DEA office in Miami did not return calls seeking comment for this article. The Israeli consulate's office in Miami declined to comment.

First crack

The first crack in Zev Rosenstein's organization came in July 2001, when an undercover law enforcement officer reported to federal authorities that he had been approached about buying 65,000 tablets of Ecstasy for almost \$400,000.

Using the name Juan Carlos, the undercover office negotiated the deal with Patricio "Petete" Vives, a Colombian national who frequented Miami. Vives reportedly put Carlos in touch with Mordechai "Flaco" Cohen. Cohen, who grew up in Colombia and moved to Madrid in 2001, is the son of Elias Cohen, an alleged drug lord in Colombia.

Flaco Cohen later testified that he was locating buyers for his old friend Michtavi, whom he had met through his father. He said he had been asked by Michtavi to find customers for Ecstasy tablets supplied by Rosenstein's organization. At one point during the negotiations, undercover agent Carlos said he talked directly with Michtavi, who said that the drugs would have to be picked up in New York.

So law enforcement authorities dispatched an undercover officer to a Manhattan hotel to receive a sample of the drugs from two Israeli nationals. On July 17, 2001, New York City police and the DEA raided an apartment rented by two men, Israel “Shay” Ashkenazi and David “Dudu” Raushi, and found 800,000 tablets of Ecstasy.

The seizure of the pills gave authorities their first set of insiders willing to testify against their bosses. The two men who were arrested, Ashkenazi and Raushi, denied knowing Michtavi or Cohen. Raushi did say, however, that he knew Rosenstein was involved in the drug deals.

Murder plots

Two months before the Manhattan bust, Michtavi and Cohen met at Cohen’s home in Madrid to discuss a contract murder. What they said depends on whom you believe.

Michtavi later testified that Cohen said his father, Elias Cohen, had ordered two Colombian brothers to kill Rosenstein and Michtavi at the direction of a rival Israeli crime syndicate, the Alperon family. According to Michtavi, Cohen said he could intervene and stop the hits if Michtavi and Rosenstein gave him money to pay off the Colombian hit men. Michtavi said he and Rosenstein arranged for a series of payments to be made to Cohen to save their lives.

In contrast, Cohen testified that Michtavi asked him to hire the two Colombian hit men to kill members of the rival Alperon family. Cohen said that is when he decided to begin working with the Israeli National Police.

But Cohen also decided to continue dealing drugs, because he was set to make big money on the deals. The U.S. government contends he made between \$1 million and \$1.5 million on various side deals while working as an informant with the Israeli police. That appears to have included the deal first set up with undercover officer Juan Carlos in Miami.

The X business

In his testimony, Cohen described how the international drug deals worked.

Michtavi agreed to supply Cohen with the Rosenstein organization’s Ecstasy, sometimes called X or E, at \$3 a pill. Cohen would locate buyers for the Ecstasy tablets and pass the phone numbers and names to Michtavi. Michtavi then would pass the information to Alan and Baruch Dadush, two Israelis.

The Dadush brothers, who later were arrested in a drug sweep focused on Rosenstein’s supply operations, said they had been approached by Michtavi and asked to hire two men to set up a stash house in New York. Those two men were Ashkenazi and Raushi. Whenever the Dadush brothers got word from Michtavi of a pending drug deal, they would tell Ashkenazi and Raushi how much drugs to release to a particular customer.

At the time of the July 2001 drug deal involving undercover agent Juan Carlos, Michtavi was supposedly on the road to Romania. So, according to Cohen, Rosenstein called him from Israel to confirm that an associate of Juan Carlos had gotten his sample of drugs from Ashkenazi and Raushi. Rosenstein said he would call Cohen back after the New York deal was completed.

But Cohen said Rosenstein later called to say he could not get in touch with his New York contacts and thought they may have been arrested. On arriving in Romania, Michtavi and Cohen talked, and Michtavi said he would find out what had happened.

Over the next few months, using coded language, the two men talked several times on the phone. According to Cohen, they discussed the New York hotel drug bust and the Colombian hit men, using words like “the big mess” or “the accident” for the bust in New York, “the brothers” for the Colombian hit men, “the bald one” for Vives, and “the fat man” for Rosenstein.

What Michtavi didn’t know was that three of those phone calls were recorded by law enforcement authorities. Those tapes later became key evidence against him.

Cohen testified that during one of the first coded conversations, he was told by Michtavi that he needed to pay back Michtavi and Rosenstein for the drugs seized in New York.

Michtavi claimed, however, that they only discussed ending the murder contract on Rosenstein’s life, because a truce was being worked out between Rosenstein and the Alperon family. Michtavi denied discussing any drug deal and being involved in the drug ring.

Dominoes started falling

After the July 2001 drug bust at the New York apartment, the dominoes started falling. Ultimately, Ashkenazi, Raushi and Cohen all testified at Michtavi’s trial.

In November 2002, a criminal complaint was filed by the DEA and a sealed warrant was issued for Michtavi’s arrest. Five months later, Michtavi was arrested in Bulgaria and extradited to Miami. He was charged in federal court with conspiring to distribute MDMA with Vives, the two Israelis who manned the stash house in New York, and Cohen. A grand jury indicted all five men, but Vives, Ashkenazi, Raushi, and Cohen would all eventually plead guilty.

During Michtavi’s trial, prosecutors presented testimony from Raushi, Ashkenazi, and a jailhouse informant, Hod Shlit.

Shlit, another Israeli in jail facing a variety of white-collar crime charges, had been held on an unrelated charge in the same special housing unit at the Miami federal detention center as Michtavi and his co-conspirators. During the detention, Shlit said he became friendly with Michtavi and had conversations with him in Hebrew while they sat in their high-security cells.

Shlit testified that Michtavi admitted to him that he was in jail because of Cohen. Shlit said Michtavi also told him that Ashkenazi, Raushi and any other witnesses would never testify

against him because he would have them killed when they returned to Israel.

Michtavi's attorney argued that those conversations between Shlit and Michtavi could not have happened because the structure of the jail cells would have required each man to yell. "The only way that any conversation can be had [in those cells] is by screaming at the top of your lungs," Bruce Lehr said in an interview.

But the government said there were small windows in the cells that allowed some conversation and the guards would not have understood the conversations because they were in Hebrew.

Either way, Shlit's testimony was damaging. After a four-day trial, Michtavi was found guilty. "The last nail in the coffin of this prosecution was Hod Shalit testifying as to things my client said in the [special housing unit]," Lehr said.

Soon after, the Israeli National Police told the DEA that they had evidence that Rosenstein supplied the Ecstasy pills found in the New York apartment. Rosenstein was arrested in Tel Aviv last December.

'The fat man'

Rosenstein was a dark legend in Tel Aviv. According to the Jerusalem Post, intelligence reports indicated that Rosenstein was involved in drugs, extortion, illegal gambling and prostitution.

He had survived as many as seven assassination attempts by rival gangs, including a 2003 bombing. The bombing failed to kill Rosenstein, but did kill three innocent bystanders. The bombing prompted Israeli Prime Minister Ariel Sharon to create a government commission to address what was perceived as a growing organized crime wave in Israel.

Rosenstein — referred to as "the fat man" in Cohen's and Michtavi's taped conversations — was cleared for extradition by an Israeli judge last April. He appealed that order, denying he had ever dealt drugs in the United States or Israel. A July news report said he was awaiting a decision from Israel's supreme court on his appeal.

According to news accounts, the Israeli government agreed to extradite Rosenstein only if the United States agreed to allow him to serve any prison sentence in Israel. Rosenstein is being held under 24-hour video surveillance in an Israeli prison. He sits in the same cell that once held the man who assassinated Israeli Prime Minister Yitzhak Rabin 10 years ago.

The Jerusalem Post reported last December that prison officials said Rosenstein asked for a cellmate because he feared he was losing his mind from loneliness. But no fellow prisoners agreed to be his cellmate out of fear that they would be asked to snitch on him and place their lives in jeopardy.

"The conditions in jail are horrible, and they are out to get me," Rosenstein complained during a court hearing in Jerusalem late last year. A district judge had denied Rosenstein's request to

await extradition under house arrest.

New identities

Alan and Baruch Dadush reportedly have agreed to testify against Rosenstein. They and 29 other suspects were arrested in November 2001 as part of a massive sting on the manufacturing end of the Ecstasy drug distribution network.

Authorities said the drugs had been made in Amsterdam, while deals were sealed in Israel. That information led to the sweep and the discovery of some 1.6 million Ecstasy pills in Germany.

The Dadush brothers were convicted in April 2004 in Israel for financing drug buys and arranging the deals. The Jerusalem Post reported last November that they and their families were flown to the United States from Israel — where they were serving 18 years for their roles in the drug ring. According to the article, both men and their families will enter federal protective custody and receive new identities and U.S. citizenship in exchange for their testimony.

Cohen pled guilty and got a break on sentence for his help in the prosecution of Michtavi. He is being held at the Federal Detention Facility in Miami. He's scheduled to be released next February.

Michtavi, now 53, is currently being held in the federal prison in Allenwood, Pa. Pending re-sentencing, his scheduled release date is September 2020.

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Bruce Lehr photo by Aixa Montero