

NOT FOR PUBLICATION

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

	)	CASE NO. SX-09-CR-554
	)	
PEOPLE OF THE VIRGIN ISLANDS,	)	MURDER IN THE FIRST DEGREE /
	)	PRINCIPAL
Plaintiff,	)	14 V.I.C. § 922(a)(1) & 11(a)
	)	ASSAULT / FIRST DEGREE
v.	)	(TWO COUNTS)
	)	14 V.I.C. § 295(1) & 11(a)
JALANI WILLIAMS,	)	POSSESSION OF A FIREARM
	)	DURING THE COMMISSION OF A CRIME
Defendant.	)	OF VIOLENCE
	)	14 V.I.C. § 2253(a) & 11(a)
	)	RECKLESS ENDANGERMENT
	)	14 V.I.C. § 625(a) & 11(a)
	)	

MEMORANDUM OPINION

THIS MATTER is before the Court on Defendant Jalani Williams' Renewed Motion for Judgment of Acquittal.¹ The People filed a Response in Opposition.² Defendant was tried jointly with co-defendants Joh Williams and Khareem Hughes after being charged in the Amended Criminal Information with murder in the first degree, assault in the first degree, unauthorized possession of a firearm, and reckless endangerment. Following a jury trial, Defendant was found guilty on all charges except one count of first-degree assault. Defendant challenges his conviction on several grounds; 1) that the evidence adduced at trial was insufficient to prove first-degree murder; 2) that Khareem Hughes' conviction on the lesser-included offense of voluntary manslaughter negated Defendant's conviction for first degree murder; and 3) that the People improperly introduced a baseless theory that the Defendants engaged in an assassination plot.³ Accordingly, Defendant moves the Court to vacate the jury's verdict and enter a judgment of acquittal. The Court will examine each claim below.

¹ (Def.'s Mot. for J. Acq., filed Dec. 5, 2011.)

² People's Opp'n, filed Dec. 8, 2011.)

³ Defendant mistakes his remedy on this issue. As will be discussed later, a finding of prosecutorial misconduct would not warrant a judgment of acquittal but would call for setting aside the verdict and retrying the Defendant. See *Maynard v. Government of the Virgin Islands*, 51 V.I. 774, 2009 US DIST LEXIS 35132 (D.V.I. April 17, 2008).

STANDARD

I. Judgment of Acquittal

A judgment of acquittal must be entered for any offense for which the evidence is insufficient to sustain a conviction.⁴ Federal Rule of Criminal Procedure 29 allows courts to “reserve decision on the motion . . . submit the case to the jury, and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict.”⁵ Under the standard for a judgment of acquittal, the sufficiency of the evidence presented at trial is reviewed in the light most favorable to the People.⁶ Evidence “does not need to be inconsistent with every conclusion save that of guilt in order to sustain the verdict.”⁷ Courts are tasked with reviewing all issues of credibility under the province of the jury.⁸ However, a court is not called upon to assess witness credibility or weigh evidence.⁹ A conviction will only be affirmed if a rational trier of fact could have found the defendant guilty beyond a reasonable doubt and the convictions are supported by substantive evidence.¹⁰

DISCUSSION

A. Based on the Evidence Adduced at Trial, a Rational Juror Could Find the Defendant Guilty Beyond a Reasonable Doubt of First Degree Murder.

The evidence presented at trial reveals that on August 2, 2009 the Defendant Jalani Williams was in area next to Gertrude’s Restaurant. Defendant was in the immediate vicinity of co - defendant Joh Williams as Joh openly brandished a weapon. Witness statements and testimony reveal that both Defendant Jalani Williams and co-defendant Joh Williams began shooting at the victim, Almanzo Williams. Even after the victim fell to the ground, both Defendants continued to shoot him repeatedly. Medical records established that the victim died two hours later due to multiple gunshot wounds to the abdomen. Immediately following the shooting, Defendant Jalani Williams jumped into the passenger window of a car being driven by co-defendant, Khareem Hughes. Police officers unsuccessfully attempted to stop them as they fled the vicinity of Gertrude’s Restaurant, the scene of the crime. Jalani Williams and Khareem Hughes traveled in the vicinity of Questa Verde, where they were confronted by a police roadblock, which they proceeded

⁴ Fed.R.Crim.P. 29(a).

⁵ Fed.R.Crim.P. 29(b).

⁶ *United States v. Gonzalez*, 918 F.2d 1129, 1132 (3d Cir. 1990).

⁷ *Bowry v. People of the V.I.*, 52 V.I. 264, 268 (2009) (internal quotation and citations omitted)).

⁸ *Id.* at 267-8.

⁹ *Gov’t of the V.I. v. Joseph*, 770 F.2d 343, 348 (3d Cir. 1985).

¹⁰ *Bowry*, 52 V.I. at 268.

to drive through. After driving through the road block, Defendant Jalani Williams and co-defendant Khareem Hughes traveled in the vicinity of Golden Rock and there Defendants crashed into a truck. Both Defendants jumped out of the car and continued to flee on foot until Defendant Jalani Williams was eventually apprehended by the police. When the police searched the Defendant, they found two firearms and a live round on his person. Police retrieved over forty shell casings from the scene, some of which forensic testing was able to match with the live round found on the Defendant.

Under Virgin Islands law, “[m]urder is the unlawful killing of a human being with malice aforethought.”¹¹ A person commits the crime of murder in the first-degree when he commits “any . . . kind of willful, deliberate and premeditated killing . . .”¹² To prove Defendant guilty of murder in the first degree the People had to prove beyond a reasonable doubt that he unlawfully killed Almanzo Williams with malice aforethought, in a willful, deliberate, and premeditated fashion. Premeditation requires “a prior design to commit murder, [but] no particular period of time is necessary for such premeditation.”¹³ To premeditate a killing is to conceive the design or plan to kill.¹⁴ However, the deliberation and planning that may go into premeditation does not have to involve any particular length of time.¹⁵ Further, because premeditation is subjective, it often can only be established by circumstantial evidence.¹⁶ Thus, premeditation may be based on inferences from objective facts.

Applying this standard here, the Court finds that, viewing the evidence in the light most favorable to the People, a jury could reasonably have found from the evidence and testimony presented that the Defendant acted in a premeditative and deliberate manner, and with malice aforethought to commit first degree murder.

B. Defendant’s Conviction of First Degree Murder is not so Inconsistent with Co-Defendant’s Khareem Hughes Conviction for Voluntary Manslaughter as to be Rendered Improper.

Under Virgin Islands law, voluntary manslaughter is the unlawful killing of a human being without malice aforethought, upon a sudden quarrel or heat of passion.¹⁷ Defendant argues that the

¹¹ V.I. Code Ann. tit. 14, § 921 (1996 & Supp. 2011).

¹² *Id.* § 922(a)(1).

¹³ *Gov’t of the V.I. v. Sampson*, 94 F. Supp. 2d 639, 644 (D.V.I. App. Div. 2000)(citations omitted)).

¹⁴ *Gov’t of the V.I. v. Martinez*, 780 F.2d 302, 305(3d. Cir. 1985).

¹⁵ *Brown v. People of the Virgin Islands*, S. Ct. Crim. No. 2008 – 0073, 2010 VI SUPREME LEXIS 62 * 2 (Mar. 24, 2010) (quoting 40 A Am. Jur. 2d. Homicide § 448 (Feb. 2010)).

¹⁶ *Id.* See also *Gov’t of the V.I. v. Lake*, 5 V.I. 594, 605,606 (3d. Cir. 1966).

¹⁷ V.I. Code Ann. tit. 14, § 924 (1996 & Supp. 2011).

conviction of Khareem Hughes for the lesser – included offense of voluntary manslaughter, which requires that a defendant have acted in a sudden quarrel or heat of passion, is inconsistent with his conviction for premeditated and deliberate first degree murder. Thus, Defendant argues his conviction is improper and must be overturned. But Defendant's argument fails for two reasons. First and most importantly, at trial, the jury was informed of their responsibility to separately consider the evidence against each individual Defendant in this matter on each offense charged.¹⁸ (Jur. Istr. ¶ 34) *Zafiro v. United States*, 506 U.S. 534, 541 (1993) (finding that potential prejudice to defendants tried jointly was mitigated by proper curative instructions to the jury))). The jury instructions were explicit in stating this,

[F]or each defendant and offense, you must decide whether the People have proven beyond a reasonable doubt that the particular defendant is guilty of the particular offense. Your decision on any one defendant or any one offense, whether guilty or not guilty, should not influence your decision on any of the other defendants or offenses. Each offense and each defendant should be considered separately.¹⁹

In this matter, there were multiple Defendants. The jury's determination of the guilt or innocence of each Defendant is assumed to have been based solely on the evidence against that particular Defendant. Thus, the jury considered the evidence against the Defendant Jalani Williams and each offense that he was charged with, separate and apart from the evidence against Khareem Hughes. After doing so, a jury found that each Defendant's actions warranted a different conviction. This is not improper. *Gov't of the V.I. v. Martinez*, 620 F.3d 321, 332 (3d Cir. 2010) ("Hypothesizing about contradictory jury verdicts does not afford a basis for reversing a conviction on sufficiency-of-the-evidence review.") *United States v. Mussare*, 405 F.3d 161, 167 (3d Cir. 2005) ("[T]here is no requirement that a jury's verdict be consistent."))).²⁰

Further, jury's may be more lenient toward one defendant over another, which may lead to different or inconsistent verdicts. But an inconsistent verdict premised on jury leniency by itself is not enough to warrant a judgment of acquittal.²¹ In *Dunn v. United States*, the Supreme Court held that inconsistent verdicts emanating from jury leniency may stand. *Dunn v. United States*, 284 U.S. 390 (1932). This is because a defendant is protected from jury irrationality by the review of the

¹⁸ See also *Richardson v. Marsh*, 481 U.S. 200 (1987).

¹⁹ (Jur. Istr. ¶ 34.)

²⁰ See also *Government of the Virgin Islands v. Rosa*, Civ. No. 040-1846, 399 F. 3d 283, 2005 U.S. App. LEXIS 3218 (3d. Cir. Feb. 2005)

²¹ *Government of the Virgin Islands v. Edwards*, No. 89-3509, 903 F.2d 267, 271 (3d. Cir. 1991) (citations and quotations omitted)).

sufficiency of evidence undertaken by trial and appellate courts.²² The law recognizes that issues of intent are rarely proven with direct evidence and must be inferred from the objective facts of the case.²³ "Consistency in the verdict is not necessary. . . . [and] verdicts cannot be upset by speculation or inquiry into such matters."²⁴

Finally, the Defendant had the opportunity to present the defense that he did not act with premeditation or malice aforethought to the jury, through the Court's instruction that voluntary manslaughter is a lesser included offense of murder.²⁵ For the reasons stated above, the Court finds that even if the verdicts in this matter were inconsistent this is not a basis for setting aside Defendant's conviction for first degree murder.

II. Motion for a New Trial

The Court notes that Defendant moves for a judgment of acquittal based in part on the allegation that the People improperly proffered to the jury a baseless theory that the Defendants formed an assassination plot to murder the victim. Thus, Defendant alleges prosecutorial misconduct. But he mistakes his remedy on this issue. A finding of prosecutorial misconduct would not warrant a judgment of acquittal but would call for setting aside the verdict and retrying the Defendant.²⁶ Under Rule 135 of the Superior Court, the Court on motion of a defendant may grant a new trial to [a] defendant if required in the interest of justice.²⁷ The decision whether to grant a new trial is in the trial court's sound discretion."²⁸ A reviewing court employs "a harmless error analysis when deciding whether a new trial is warranted because of improper remarks made by the prosecutor during closing arguments."²⁹ Under a "harmless error analysis" a court will review the record as a whole.³⁰ If an error violated a defendant's constitutional rights, the defendant is owed a new trial.³¹ Improper conduct only becomes constitutional error when the impact of the

²² *United States v. Powell*, 469 U.S. 57, 64 -67 (1984)(reaffirming *Dunn*)).

²³ *Government v. Lake*, 5 V.I. 594, 605, 362 F.2d 770 (3d. Cir. 1966).

²⁴ *Dunn v. United States*, 284 U.S. at 393. See also *United States v. Dotterweich*, 320 U.S. 277, 279, (1943)(holding that inconsistency is not a basis for reversal of verdicts that treat co-defendants in a joint trial)).

²⁵ See *Government of the Virgin Islands v. Sampson*, 94 F. Supp. 639, 643 (D.V.I. 2000).

²⁶ See *Maynard v. Government of the Virgin Islands*, 51 V.I. 774, 2009 US DIST LEXIS 35132 (D.V.I. April 17, 2008).

²⁷ Super. Ct. R. 135.

²⁸ *Gov't of the Virgin Islands v. Commissiong*, 706 F. Supp. 1172, 1184 (D. V.I. 1989) (internal citations)).

²⁹ See *Maynard* 2009 U.S. DIST LEXIS 35132 at 29, See also *United States v. Gambone*, 314 F.3d 163, 177 (3d Cir. 2003)(citations omitted)).

³⁰ *United States v. Zehrbach*, 47 F. 3d 1252, 1265 (3d. Cir. 1995)(en banc)).

³¹ *Id.* at 1265.

misconduct is to distract the trier of fact and raise doubts about the fairness of the trial.³² A new trial should not be granted unless the court believes that there is a "serious danger...that an innocent person has been convicted."³³ In this matter, Defendant argues that the People presented no evidence at trial of deliberation or premeditation nor was there any evidence that would substantiate the People's theory that the Defendants engaged in an assassination plot to murder the victim. Thus, he contends that the People's reference to an assassination plot was improper.

The Court must review several factors to determine whether the comments made by the prosecution were prejudicial to the Defendant; 1) the scope of the comments within the context of the entire trial; 2) the effect of any curative instructions given; and 3) the strength of the evidence against the defendant.³⁴ Applying this rubric to the record herein, the Defendant was charged with premeditated and deliberate killing, committed with malice aforethought. The People were entitled to advance a theory as to Defendant's motive. Just as the Defendant had the opportunity at trial to discredit the People's theory.³⁵ Further, the Court's instructions to the jury were curative, explicitly reminding jurors that

Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements, closing arguments and at other times is intended to help you interpret the evidence but is not evidence. If the facts as you remember them differ from the way the lawyers stated them, your memory controls.³⁶

It could be argued that these instructions did not directly reference specific comments by the prosecutor and thus did not cure possible harm suffered by the Defendant because of them. But a review of the record as a whole does not persuade the Court that a lack of a specific curative instruction compels the conclusion that a new trial is needed.³⁷ Finally, as discussed above the

³² *Maynard*, 2009 U.S. DIST LEXIS at * 22 (quoting *Marshall v. Hendricks*, 307 F.3d 36, 67 (3d. Cir. 2002) (citations omitted)).

³³ *Stevens v. People of the Virgin Islands*, Sup. Ct. Crim. 2007 – 126, 2009 V.I. SUPREME LEXIS 29 (Sup. Ct. Sept. 2009)(quoting *United States v. Silveus*, 542 F.3d 993, 1004(3d. Cir. 2008)(citations omitted)).

³⁴ *Maynard*, 2009 US DIST LEXIS at * 27 (quoting *U.S. v. Gambone*, 314 F.3d at 179).

³⁵ See *People of the Virgin Islands v. Delvin Delano Duggins*, Sup. Ct. Crim. No. 2010 – 0024 (finding that the prosecutor's alleged advancement of a theory that defendant was involved in a conspiracy did not vary fatally from the charges against the defendant for making false claims against the government).

³⁶ (Jur. Istr. ¶10)(*emphasis added*) See also *Zafiro*, 506 U.S. at 541.

³⁷ *Maynard*, 2009 US DIST LEXIS at 27(finding that a lack of specific curative jury instructions regarding a prosecutor's comments did not weigh in favor of granting a new trial because the record as a whole indicated that the evidence against the defendant was strong and general instructions to the jury were curative) (citations and quotations omitted)).

weight of the evidence against the Defendant was very strong. Accordingly, the Court finds that the People's comments regarding an alleged assassination plot on the part of the Defendant does not entitle the Defendant to a new trial.

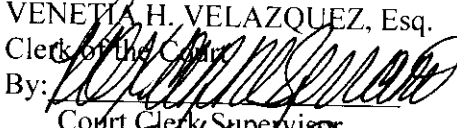
CONCLUSION

The Court finds that the evidence presented in this case does not weigh heavily against the verdict and was sufficient to sustain a finding of guilt for first degree murder. The jury's verdict is supported by the weight of the evidence. Moreover, Defendant's conviction of first degree murder is not negated or improper because of Hughes' conviction of the lesser – included offense of voluntary manslaughter. Accordingly, Defendant Jalani Williams' Renewed Motion for Judgment of Acquittal will be denied. An order consistent with this opinion will follow.

DONE AND SO ORDERED this 15th day of May, 2012.



DARRYL DEAN DONOHUE, SR.
Presiding Judge of the Superior Court

ATTEST:
VENETIA H. VELAZQUEZ, Esq.
Clerk of the Court
By: 
Court Clerk Supervisor
Dated: 5/16/12

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