

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

JAMAL JUSTIN FAHIE,

Petitioner,

vs.

) CASE NO. ST-16-MC-2

**GOVERNMENT OF THE VIRGIN ISLANDS,
CLAUDE WALKER, ATTORNEY GENERAL, and
MILDRED TROTTER, Warden at Golden Grove
Adult Correctional Facility,**

Respondents.

MEMORANDUM OPINION

Pending before the Court is Respondents' February 23, 2016, Motion for Stay and in the alternative, Opposition to Petitioner's Writ of Habeas Corpus. For the following reasons, Respondents' Motion for Stay will be granted.

FACTUAL & PROCEDURAL HISTORY

Petitioner was convicted of first and second degree murder, three counts of unauthorized use of a firearm, and assault in the first degree in connection with the murder of Omari Baltimore. On May 10, 2013, Petitioner was sentenced to life imprisonment without parole,¹ and filed a notice of appeal to the Supreme Court of the Virgin Islands on May 15, 2013. On appeal, the Supreme Court of the Virgin Islands affirmed his conviction,² and on July 16, 2015, Petitioner filed a petition for writ of certiorari with the Third Circuit Court of Appeals for review of the Virgin Islands Supreme Court's May 18, 2015, decision. Petitioner filed his Writ of Habeas Corpus in this Court on January 11, 2016, and on February 16, 2016, the Third Circuit Court of Appeals issued an order granting certiorari.

¹ Petitioner was sentenced to life imprisonment without parole as to Count I (first degree murder) and a concurrent term of 15 years incarceration as to Count II (unauthorized possession of a firearm during a crime of violence), with the remaining counts merging for sentencing purposes.

² *Fahie v. People*, 62 V.I. 625, 629 (V.I. 2015).

STANDARD

The Court has discretion to stay proceedings *sua sponte*.³ Further, “in the exercise of its sound discretion, a court may hold one lawsuit in abeyance to abide the outcome of another which may substantially affect it or be dispositive of the issues.”⁴ Similarly, “[u]nder the ripeness doctrine, courts will defer from ruling on a claim when ongoing or potential future litigation precludes an informed determination of the issues.”⁵ “Absent citation to any authority, this [C]ourt construes [Respondents’] motion as seeking a stay of the proceedings based on the court’s inherent power.”⁶ Thus, the Court maintains discretion in this case to stay the proceedings despite the fact that the requested stay involves the outcome of an appeal pending in another case.

ANALYSIS

Respondents assert the Third Circuit granted the writ of certiorari for two issues, both of which are dispositive of the Third Circuit case and necessitate a stay of proceedings for Petitioner’s Writ of Habeas Corpus.⁷ Further, if found in Petitioner’s favor, the Third Circuit could vacate his conviction and grant a new trial in the Superior Court of the Virgin Islands. As a result of the issues on appeal, the Court recognizes the potential for duplicative or conflicting results.⁸

³ *Gov’t of the V.I. v. Lansdale*, 2009 U.S. Dist. LEXIS 15149, *8 (D.V.I. Feb. 18, 2009).

⁴ *Bechtel Corp. v. Local 215, Laborers’ Int’l Union*, 544 F.2d 1207, 1215 (3d Cir. 1976) (citing *American Life Ins. Co. v. Stewart*, 300 U.S. 203, 215, 81 L. Ed. 605, 57 S. Ct. 377 (1937)).

⁵ *Simon v. Joseph*, 59 V.I. 611, 613 (V.I. 2013).

⁶ *Creque v. Roebuck*, 1979 V.I. LEXIS 23, *2 (V.I. Terr. Ct. 1979); *Gov’t of the V.I. v. Lansdale*, 2009 U.S. Dist. LEXIS 15149, *8 (D.V.I. Feb. 18, 2009); *Pedro v. Ranger American of the Virgin Islands, Inc.*, 2015 V.I. Supreme LEXIS 19, *23-27 (V.I. 2015) (J. Gomez, *dissenting in part*) (“[A]s a matter of law, trial judges have the inherent power “to control the disposition of the causes on [the court’s] docket with economy of time and effort for itself, for counsel, and for litigants.”) (citing *United States v. Colomb*, 419 F.3d 292, 299 (5th Cir. 2005) (other citation omitted)).

⁷ The first issue involves whether the Supreme Court erred in ruling that the “aiding and abetting” instruction by the trial court was proper, and the second involves whether the Supreme Court’s ruling regarding the “anti-CSI” instruction was erroneous.

⁸ See *Rivera-Moreno v. Gov’t of the V.I.*, 61 V.I. 279, 294-95 (V.I. 2014) (discharge is not the only remedy available under the local habeas corpus statute).

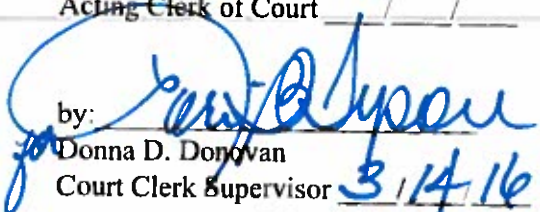
Traditionally, the Supreme Court of the Virgin Islands employs a four (4) factor test to determine whether a litigant is entitled to a stay pending appeal. The test considers: (1) whether the litigant has made a strong showing that he is likely to succeed on the merits; (2) whether the litigant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceedings; and (4) where the public interest lies.”⁹

However, here the Court finds this test inapplicable since the current motion for stay involves the appeal of a conviction previously affirmed by the Supreme Court of the Virgin Islands. Even if the Court were to apply the four factor test, the balance of equities clearly favors a stay because the appeal with the Third Circuit involves a significant legal question that could substantially affect Petitioner's Writ of Habeas Corpus.¹⁰ As a result, in the interest of judicial economy, the Court will rely on its inherent authority and stay these proceedings pending the resolution of the appeal by the Third Circuit.

An Order consistent with this Opinion shall issue.

Dated: March 11, 2016

ATTEST: Estrella H. George
Acting Clerk of Court

by: 
Donna D. Donovan
Court Clerk Supervisor 3/14/16


HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

⁹ *James v. Faust*, 2015 V.I. Supreme LEXIS 24, at *3-4 (V.I. 2015) (unpublished) (citing *Engeman v. Engeman*, 2015 V.I. Supreme LEXIS 20, at *3-4 (V.I. July 2, 2015) (unpublished) (quoting *Tip Top Constr. Corp. v. Gov't of the V.I.*, 2014 V.I. Supreme LEXIS 15, at *2 (V.I. Feb. 14, 2014) (unpublished)).

¹⁰ *See id.* at *4 (citing *Rojas v. Two/Morrow Ideas Enterprises, Inc.*, 2009 V.I. Supreme LEXIS 6, *5, (V.I. Jan. 22, 2009) (unpublished); *In re Najawicz*, 2009 V.I. Supreme LEXIS 2, at *6 (V.I. Jan. 8, 2009) (noting that even if a litigant cannot fully satisfy the first factor, it may succeed if it can demonstrate a “serious legal question” and the other factors favor a stay).