

The case initially proceeded to jury selection and trial on September 17, 2012, which resulted in the Court declaring a mistrial on September 25, 2012, due to the inability of the jury to reach a unanimous decision. After several continuances of the date to retry the case, O'Neill executed a plea agreement on November 10, 2015. According to the terms of the plea

agreement, O'Neill agreed to plead guilty to voluntary manslaughter pursuant to section 924(1) of title 14 of the Virgin Islands Code in exchange for a dismissal of all remaining counts with prejudice.¹

On August 25, 2016, the Court held a sentencing hearing wherein both sides were given an opportunity to review the pre-sentence report prepared by the Office of Probation, allocute their respective positions, and present sentencing recommendations for the Court's consideration. After hearing the arguments of counsel and considering the entire record, the Court sentenced O'Neill to, *inter alia*, eighty four (84) months imprisonment and dismissed the remaining counts in the Information with prejudice. The Court memorialized its ruling in a Judgment and Commitment dated August 25, 2016, and issued by the Clerk's Office on August 26, 2016.

O'Neill now moves for a reduction of her sentence. The People did not file a response.

II. DISCUSSION

In *Williams v. People of the Virgin Islands*, 58 V.I. 341 (V.I. 2013), the Virgin Islands Supreme Court opined that the Superior Court's authority to review a sentence after it is announced is constrained by Superior Court Rule 136. *Id.* at 353. Rule 136 states:

The court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence. The court may reduce a sentence within 120 days after the sentence is imposed, or within 120 days after any order or other mandate issued upon affirmance of the judgment or dismissal of the appeal, received by the court has become final by reason of the expiration of the time limited for further appeal or review.

¹ Under Virgin Islands law, "voluntary manslaughter" is defined as the "unlawful killing of a human being without malice aforethought . . . upon a sudden quarrel or heat of passion." 14 V.I.C. § 924(1).

Super. Ct. R. 136. Thus, Rule 136 permits the Court to correct an illegal sentence at any time, but limits the Court's ability to reduce an imposed sentence only if the motion for sentence reduction is filed within 120 days of the date of issuance of the order imposing the sentence. Ultimately, the determination of whether to reduce a sentence lies within the discretion of the Court. *See Brown v. People of the Virgin Islands*, 56 V.I. 695, 699 (V.I. 2012) (opining that the Supreme Court "will not review a sentence which falls within the bounds prescribed by the applicable statute . . ." and that the "trial court's sentencing determination will be interfered with only upon a showing of illegality or abuse of discretion."); *see also People of the Virgin Islands v. Joseph*, 2011 V.I. LEXIS 22, at *2 (V.I. Super. Ct. Apr. 7, 2011) ("A motion for reduction of sentence is essentially a plea for leniency addressed to the sound discretion of the sentencing court.") (internal quotations omitted).

O'Neill does not argue that the Court issued an illegal sentence or that her sentence was imposed in an illegal manner.² Instead, O'Neill requests a reduction of her sentence on what appears to be based on notions of fairness. O'Neill filed a 1-page motion (along with a two-page memorandum) seeking a reduction in her 84-month sentence asserting that "other defendants have received lesser sentences for greater offenses before this Court" and that "the community has requested the defendant be shown lenity." Def.'s Mot. for Reduction at 1. O'Neill also attached a petition signed by approximately 200 individuals requesting her immediate release from her "unjust sentence."

² It is well established that "[a] trial court's sentence within statutory limits is presumptively valid." *Brown v. People of the Virgin Islands*, 56 V.I. 695, 714 (V.I. 2012). O'Neill pleaded guilty to involuntary manslaughter in violation of 14 V.I.C. § 924(1) which carries a maximum term of incarceration of ten (10) years. *See* 14 V.I.C. § 925(a) ("Whoever commits voluntary manslaughter shall be imprisoned for not more than ten (10) years"). The Court sentenced O'Neill to 84 months incarceration, well within the ten-year statutory limit.

The plain language of the Rule 136 requires a defendant to file a motion for reduction of sentence within 120 days after the sentence is imposed. The Virgin Islands Supreme Court instructs that a sentence is “imposed not when it is executed; imposition of a sentence occurs upon final adjudication of guilt, not when incarceration actually begins.” *Williams*, 58 V.I. at 353. The final adjudication of O’Neill’s guilt on her plea of guilty for voluntary manslaughter occurred, at the latest, on August 26, 2016, the date the Court issued the Judgment and Commitment imposing her sentence. O’Neill filed the motion for sentence reduction on December 28, 2016, approximately 124 days after the Court issued its Judgment and Commitment. Thus, the Court finds that O’Neill’s motion for reduction of her sentence was filed beyond the 120 days permitted by Rule 136, and will decline to exercise its discretion to consider reducing her sentence.

Even if the Court was inclined to exercise its discretion to reconsider O’Neill’s sentence, she has failed to present any legal or factual basis that would warrant a reconsideration. Several courts have held that “[w]hen a defendant moves for a reduction of a sentence, she ‘must demonstrate some valid reason for the court to reconsider its earlier ruling and must set forth substantial facts or law to persuade the Court to reverse its earlier decision.’” *People of the Virgin Islands v. Joseph*, 2011 V.I. LEXIS 22, at *2-3 (V.I. Super. Ct. Apr. 7, 2011) (citing *Govn’t of the Virgin Islands v. Charles*, 47 V.I. 160, 166 (V.I. Super. Ct. Aug. 3, 2005)); see also *United States v. Woods*, 986 F.2d 669, 673 (3d Cir. 1993)). In this matter, O’Neill submitted nothing more than a conclusory statement, without any legal or factual support, that “other defendants have received lesser sentences for greater offenses.” This fails to rise to the standard of presenting substantial facts. See *People of the Virgin Islands v.*

Irons, 2013 V.I. LEXIS 24 (V.I. Super. Ct. Apr. 29, 2013) (denying motion to reduce defendant's sentence of 18 years imprisonment for guilty plea of second degree murder where defendant presented no new evidence and the Court considered the entire record at the sentencing hearing); *People of the Virgin Islands v. Joseph*, 2011 V.I. LEXIS 22 (V.I. Super. Ct. Apr. 7, 2011) (declining to reduce defendant's sentence of 10 years incarceration for possession of stolen property despite the fact that defendant claimed remorse, professed innocence and incarceration posed difficulties to defendant's family). Of course, courts should always endeavor to issue fair and just sentences keeping in mind the purposes and goals of sentencing (i.e. punishment, rehabilitation, deterrence, and/or restitution). O'Neill has presented no evidence – whether at her sentencing hearing or in her motion — identifying criminal defendants who were similarly situated, legally or factually, and the sentences those defendants received. Nonetheless, the Court fully considered all of the evidence presented at the sentencing hearing, including, the pre-sentence report prepared by the Office of Probation, the characteristics and background of Ms. O'Neill, the statements submitted on her behalf, the circumstances surrounding the death of the victim, O'Neill's plea of guilty, and finally, the arguments of both the People and O'Neill's counsel. Based on all of these considerations, the Court fashioned a sentence that it determined to be just. The Court sees no reason to deviate from that sentence.

III. CONCLUSION

For the reasons stated above, the Court will deny Defendant's motion to have her sentence reduced. The motion was filed more than 120 days after the Court pronounced her sentence. Notwithstanding the foregoing, O'Neill failed to articulate a justifiable basis to

have her sentenced reduced. The Court will issue an Order consistent with this
Memorandum Opinion.

Date: February 15, 2017


ROBERT A. MOLLOY
Judge of the Superior Court

ATTEST:
ESTRELLA GEORGE
Acting Clerk of the Court

By: 
Court Clerk Supervisor

Dated: 2/15/17