IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN
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PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	
Plaintiff,	)	CASE NO. ST-16-CR-F34
	)	
v.	)	
	)	JURY TRIAL DEMANDED
ZEBEDEE SCHULTERBRANDT,	)	
	)	
Defendant.	)	
	)	

MEMORANDUM OPINION

Before the Court is the "Defendant's Motion to Suppress" filed by Defendant Zebedee Schulterbrandt ("Schulterbrandt" or "Zebedee") on May 6, 2016. In his motion, Schulterbrandt requests suppression of all evidence seized as a result of a search of his person and apartment on January 16, 2016, including any statements made by him. A suppression hearing followed on June 24, 2016, and post-hearing briefs were submitted by the People and Schulterbrandt.[1] The People base the stop and seizure of Schulterbrandt and the magazine on reasonable suspicion obtained from several anonymous tips coupled with their own observations, and the search of his apartment based on the totality of the circumstances. However, the Court finds that the tips were not reliable enough to create reasonable suspicion, and that the search of the apartment was illegal, since it was not a consensual search and it could not be based upon exigent circumstances. The plain view exception also, does not assist the People, since the police should have obtained a warrant to seize the weapon that was allegedly in plain view. Therefore, the Court will **grant** Schulterbrandt's motion in its entirety.

I. FACTUAL BACKGROUND.

The Court held an evidentiary hearing in this matter and testimony on behalf of the People was taken from Virgin Islands Police Department Officer Roger Roberts and Ms. Carolyn Wattley, the 911 District Manager. The Defendant called as witnesses, John Schulterbrandt, Zebedee's father and Irvin Canton, a neighbor, and Zebedee testified in his own behalf.

According to the testimony of VIPD Officials and 911 phone records, on January 16, 2016, at approximately 4:59 a.m., VIPD officers responded to a report of shots fired in the area of Savan on St. Thomas. Furthermore, officers were told in the 911 transmission that a man might have been down in the gut in the vicinity of Weekes and Weekes Bakery in Savan.

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[1] At the evidentiary hearing the People were represented by Assistant Attorney General Eugene James Conner, Jr., Esquire, and Defendant Zebedee Schulterbrandt was represented by Martial A. Webster, Esquire.

Based on this information, several officers searched the gut area in Savan, and inspected the buildings in the area. Officers then received an anonymous tip, that the potential shooter was a "tall, black male" and that he "ran into the downstairs apartment of the green and white, three-story building." Upon finding this building, a search of the building's exterior followed. As this search concluded, officers then saw a black male who fit the tipster's description, standing outside the door frame of the downstairs apartment. Officers directed the individual, later identified as Zebedee Schulterbrandt, to not re-enter the apartment. Additionally, officers reported that Schulterbrandt had a scared look on his face and eyes bulging open. Moreover, the officers testified that Schulterbrandt left the front door of the apartment partially open. At this point, officers approached Schulterbrandt and asked him to show his hands. According to the testimony, Schulterbrandt acted suspiciously and attempted to reach into his pockets. Because of Schulterbrandt's demeanor, Officer Roberts feared that Schulterbrandt might have had a weapon on his person. With the safety of the officers in mind, Schulterbrandt was then detained and patted down by both Officer Darryl Donovan and Officer Kevin Turnbull. The officers found a gun magazine in Schulterbrandt's rear pants pocket.

Following the discovery of the gun magazine, Officer Roberts asked Schulterbrandt several times whether they could search his apartment. According to Officer Roberts, Schulterbrandt responded, "Do what you want." Officer Roberts then walked across the slightly ajar doorway of the apartment, and Officer Roberts saw a black handgun inside the apartment, on the bed. After relaying this information to Officer Dowe, both officers made entry into the apartment looking for bodies, and made a sweep of the area. They did not find any bodies inside, but seized the firearm on the bed.

Schulterbrandt's recitation of the facts varied significantly from that of Officer Roberts. During the suppression hearing, he testified that he opened his door because he heard his father's dogs barking upstairs. Upon opening the door, he testified that he was dragged out by officers and slammed to the ground before being placed in handcuffs. Schulterbrandt further testified that he never gave consent for the officers to enter, claiming to have instead said "get the **** from my apartment." Furthermore, while Schulterbrandt concedes that his front door was open, he claimed that a screen door was closed behind him. According to Schulterbrandt, the police did not respect his wishes and began entering his home. While still detained, Schulterbrandt claims to have been tasered, and as a result, he was unconscious until he woke up in a police vehicle. This claim of being tasered was corroborated by medical records and the testimony of his father, John Schulterbrandt. John Schulterbrandt testified to seeing the burns on his son's body caused by the Taser and waiting in the emergency room with Zebedee while his son sought treatment.

Based on these events, the People charged Schulterbrandt with unauthorized possession of a firearm with altered identification marks,[2] unauthorized possession of a firearm,[3] and failure to report a firearm.[4] Schulterbrandt now seeks to suppress the various items which were seized from him on January 16, 2016, claiming that they were taken in contravention of his rights under the Fourth Amendment of the United States Constitution. The People maintain that the anonymous

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2 V.I. Code Ann. Tit. 23, § 481(b) (2001).
3 V.I. Code Ann. Tit. 14, § 2253(a) (2012).
4 23 V.I.C. § 470(a).

tips were credible, that officers lawfully stopped Schulterbrandt, and that while a warrantless search was conducted, several exceptions to the warrant requirement made the search lawful. Schulterbrandt refutes this claim, asserting that officers lacked probable cause and reasonable suspicion throughout the encounter.

II. LEGAL DISCUSSION.

a. Standard for analyzing a motion to suppress.

"The proponent of a motion to suppress has the burden of establishing that his own Fourth Amendment rights were violated by the challenged search or seizure."[5] If the search or seizure is warrantless, the burden shifts to the People to demonstrate that the search or seizure was permissible under an exception to the Fourth Amendment's warrant requirement. Under the Fourth Amendment, people have the right "to be secure in their persons, houses...against unreasonable searches and seizures."[6] In *Thomas v. the People of the Virgin Islands*, quoting the U.S. Supreme Court, the Virgin Islands Supreme Court noted that searches conducted without a warrant are "per se unreasonable under the Fourth Amendment – subject only to a few specifically established and well-delineated exceptions."[7]

The Fourth Amendment analysis typically proceeds in three stages. First, the Court asks whether a Fourth Amendment event, such as a search or a seizure, has occurred. Next, the Court considers whether that search or seizure was reasonable. If the search or seizure was unreasonable, the Court must then determine whether the circumstances warrant suppression of the evidence.[8] Here, neither party contests that a search occurred on the day in question. Rather, as noted above, both parties focus on the reasonableness of the warrantless search. Thus, this question is where this Court focuses its analysis.

b. Reliability of an Informant's Tip.

The Supreme Court of the United States has repeatedly acknowledged that reasonable suspicion may be the result of "information from sources that have proven to be reliable, [or] information from sources that –while unknown to the police –prove by the accuracy and intimacy of the information provided to be reliable at least as to the details contained within the tip."[9] Further exalting this need for reliable information, the Court noted that without any "indicia of

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5 *United States v. Murray*, 2010 WL 3069485 at *3 (D.V.I. 2010) (quoting *Rakas v. Illinois*, 439 U.S. 128, 132 (1978)).

6 U.S. Const. amend. IV; *Terry v. Ohio*, 392 U.S. 1, 9 (1968) (adding that this "right of personal security belongs as much to the citizen on the streets" as to a citizen in her home).

7 *Thomas v. People of the Virgin Islands*, 63 V.I. 595, 605 (V.I. 2015) (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)). Courts hold this protection in no higher regard, than when the search in question is executed at the home of the defendant, noting "the physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed." *United States v. Mallory*, 765 F.3d 373, 382 (3d Cir. 2014) (quoting *Payton v. New York*, 445 U.S. 573, 590 (1980).

8 *United States v. Dupree*, 617 F.3d 724, 730 (3d Cir. 2010).

9 *United States v. Nelson*, 284 F.3d 472, 478 (3d Cir. 2002) (citations omitted).

reliability" an anonymous tip that someone possesses a firearm, does not justify a stop and frisk.[10] Thus, when "assessing the reasonableness of a stop based on an anonymous tip," courts are instructed to consider "the tipster's "veracity," "reliability," and "basis of knowledge."[11] The most recent illustration of the threshold required to make a tip reliable came in 2014, when the United States Supreme Court offered a comparison of two previous holdings.[12] There, the Court contrasted two anonymous tips, holding one to lack the credibility to be reliable, as a "bare-bones" tip that failed to suggest how the tipster knew the alleged information or how he had any special familiarity with the defendant.[13]

Here, we have a series of anonymous tips relayed to the officers. It is not clear from the record exactly how many tips were received, but it is clear that there were at least two callers. Consistent between the two callers, it was relayed that shots had been fired in the area, with regards to some sort of exchange. Where the tips differed is that one tip, provided by a male caller, identifies that a potential male victim is down in the area of the gut by Weekes and Weekes Bakery. This is not reported by the second caller, a female, who consistently relays that there is an exchange, and later in her call described it as a 'running battle'. Then, after officers had checked the gut area and found nothing, one of the tipsters called back to relay that the suspect may have been a "tall, black male" who "ran into the downstairs apartment of the green and white, three-story building."

Anonymous tips relayed through a dispatcher are clearly not the type of report where an officer can appraise the witness's credibility through observation. In addition to being anonymous, the detail of their tips does not seem to allow for the accountability of the witnesses, further calling into question the veracity of the tips. In the present case, there is some limited degree of credibility in the calls received, but not enough to stop and search Schulterbrandt. On one other hand, it does seem that the persons providing the information had recently witnessed alleged criminal activity. While there may be questions as to visibility at 5 a.m., because the calls all alleged some version of shots being fired in the area, this Court finds that this speaks favorably to the credibility of the calls. In addition, the final tipster relays that the suspect may have been a "tall, black, male" who entered the downstairs of the "green and white building". Minutes later, officers did encounter a black male at the doorstep of the downstairs apartment of the "green and white building." Still, we must consider that one of the earlier tips led officers to search for a potential victim in a gut, and the search revealed that this information was unfounded. Furthermore, the tip describing the suspect is vague enough to apply to a large portion, if not a majority, of males in St. Thomas. It is even less detailed than the tip of a "young black male… wearing a plaid shirt" that the Supreme

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10 *See Florida v. J.L.*, 529 U.S. 266, 272 (2000) (finding that applying a "firearm exception" to the analysis of a tip's reliability would "enable any person seeking to harass another… [to do so by simply] placing an anonymous call falsely reporting the target's unlawful carriage of a gun").

11 *People v. Isaac*, 2011 V.I. LEXIS 13, *8-9 (V.I. Super. Ct. Mar. 8, 2011) (quoting *United States v. Johnson*, 592 F.3d 442 (3d Cir. 2010).

12 *See Navarette v. California*, 134 S. Ct. 1683, 1688 (2014).

13 *Id.* at 1688 (*comparing Alabama v. White*, 496 U.S. 325, 327 (1990) where "an anonymous tipster told the police that a woman would drive from a particular apartment building to a particular motel [transporting cocaine] in a brown Plymouth station wagon with a broken right tail light" *and Florida v. J.L.*, 529 U.S. 266, 268 (2000) where the anonymous tip provided that a "young black male in a plaid shirt standing at a bus stop was carrying a gun").

Court found to be unreliable in *Florida v. J.L.*[14] So while the tips were somewhat predictive of gunshots being fired in Savan, they were unreliable with regards to the suspect's description, and his potential criminality. As the factors tend to disfavor credibility here that Schulterbrandt was engaged or had been engaged in criminal activity, the tips were insufficient for the officers to rely upon.

As the Supreme Court recognized in *Alabama v. White*, "an anonymous tip alone seldom demonstrates the informant's basis of knowledge or veracity" as "[it] provides virtually nothing from which one might conclude that [the caller] is either honest or his information reliable."[15] The tips received from the anonymous callers in this case may have supported an investigation into the reports of "shots fired" but were not sufficient to amount to reasonable suspicion that criminal activity was afoot with regards to Schulterbrandt. Furthermore, while officers may conduct a *Terry* stop when they have reasonable suspicion "that a person they encounter was involved in or is wanted in connection with a felony",[16] that is not the situation presented before this Court. Here, officers relied on the description of a "tall, black male" who may have been the suspect, entering a downstairs apartment of a building, as grounds for detaining, handcuffing, and allegedly tasering Schulterbrandt. As the stop of Schulterbrandt was unlawful, it follows that the detention of Schulterbrandt was unlawful. Therefore, since the stop and frisk of Schulterbrandt was illegal, the magazine seized from Schulterbrandt as a result of the search of his person must be suppressed.

c. Schulterbrandt did not consent to the search of his home.

We now move on to the search of Schulterbrandt's apartment which resulted in the seizure of the firearm on the bed. The People suggest that the search of the apartment was legal based on the totality of the circumstances which gave them probable cause to conduct the search. Because the justification for the search of Schulterbrandt's apartment must involve some exception to the requirement for a warrant, the Court will consider the exceptions that may apply to the facts of this case. Under the Fourth Amendment, when a search has occurred, an individual's consent is a recognized exception to the warrant requirement.[17] Courts have repeatedly held that the prosecution bears the burden of establishing, by a preponderance of the evidence, that consent has been freely and voluntarily given.[18] Moreover, proving that consent was freely and voluntarily given, is not something that can be "discharged by showing no more than an acquiescence to a claim of lawful authority."[19] Rather, consent must be voluntary and cannot be the product of duress or coercion.[20]

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14 *Florida v. J.L.*, 529 U.S. at 268.

15 *Alabama v. White*, 496 U.S. at 329.

16 *United States v. Hensley*, 469 U.S. 221, 229 (1985).

17 *See People v. Ambrose*, 2013 V.I. LEXIS 60, *13 (V.I. Super. Ct. Sept. 20, 2013); *People v. Archibald*, 50 V.I. 74, 101 (V.I. Super Ct. Sept. 11, 2008).

18 *See Thomas*, 63 V.I. at 607; *Ambrose*, 2013 V.I. LEXIS 60 at *14 (citing *United States v. Sebetich*, 776 F.2d 412, 424 (3d Cir. 1985)).

19 *Archibald*, 50 V.I. at 102 (citing *Johnson v. United States*, 333 U.S. 10 (1948)); *see People v. Prentice*, 2016 V.I. LEXIS 16, *24-25 (V.I. Super. Ct. Feb. 23, 2016) (citing *Thomas*, 63 V.I. at 607).

20 *People v. Caesar*, 2016 V.I. LEXIS 18, *9 (V.I. Super. Ct. Mar. 4, 2016) (citations omitted); *see also Ambrose* 2013 V.I. LEXIS 60 at *13.

While jurisdictions have not agreed on the exact test for consent, the Supreme Court has stated that voluntariness should be determined from the "totality of circumstances."[21] In the Virgin Islands, to determine voluntariness, the courts have considered: "the defendant's age, education, and intelligence;"[22] "whether officers told defendant he could refuse to consent;"[23] "the degree to which the consenting individual cooperated with police;"[24] "the length of the encounter;"[25] "whether the police threatened, physically intimidated, or punished the defendant;"[26] "whether the defendant was in custody or under arrest when consent was given;"[27] and "whether the consent occurred in a public or a secluded place."[28] Moreover, when the alleged consent is non-verbal, courts have required the consent to be an unequivocal indication, since "consent is not lightly to be inferred."[29]

When asked if officers could search his home, Schulterbrandt responded, "Do whatever you want." Schulterbrandt completely denied this, and stated that he had affirmatively told the officers that they could not search his apartment. Even if one accepts the version of events of Officer Roberts, however, the alleged consent was given after officers approached him with guns drawn, after Schulterbrandt was detained, and then after repeated requests by officers. In light of these factors, and the ambiguity of the statement, "do whatever you want," this Court finds that Schulterbrandt did not freely and voluntarily give his consent. Rather, Schulterbrandt's response seems the direct result of duress and an acquiescence to authority. Therefore, Schulterbrandt's alleged consent does not provide a lawful basis for entry into Schulterbrandt's apartment and the seizure of the weapon for evidence.

d. No exigent circumstances existed at the time of the search.

Another exception to the warrant requirement that the Court will now consider is the "exigent circumstances" exception. The courts have recognized that "the exigencies of the situation [may] make the needs of law enforcement so compelling that the warrantless search is objectively reasonable.[30] Furthermore, "[e]xigent circumstances exist when officers are in hot pursuit of a fleeing suspect, when they "reasonably... believe that someone is in imminent danger," or when they reasonably believe they must act "to prevent the imminent destruction of evidence."[31]

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21 *See Schneckloth v. Bustamonte*, 412 U.S. 218, 277 (1973); *see also Prentice*, 2016 V.I. LEXIS 16 at *25 (citing *Thomas* at 607).

22 *See Caesar*, 2016 V.I. LEXIS 18 at *9 (citing *Schneckloth*, 412 U.S. at 277); *Ambrose* 2013 V.I. LEXIS 60 at *14.

23 *See Caesar* 2016 V.I. LEXIS 18 at *9 (citing *United States v. Mendenhall*, 446 U.S. 544 (1980) (noting that whether officers provided this information should be considered, but that such knowledge is not required to prove consent)); *Ambrose* 2013 V.I. LEXIS 60 at *14.

24 *See Prentice* at *25 (citations omitted); *Ambrose* 2013 V.I. LEXIS 60 at *14.

25 *See Caesar* 2016 V.I. LEXIS 18 at *9 (citations omitted); *Ambrose* 2013 V.I. LEXIS 60 at *14.

26 *See Caesar* 2016 V.I. LEXIS 18 at *9 (citing *Schneckloth*, 412 U.S at 226); *Ambrose* 2013 V.I. LEXIS 60 at *14.

27 *See Caesar* 2016 V.I. LEXIS 18 at *9 (citations omitted); *Ambrose* 2013 V.I. LEXIS 60 at *14.

28 *See Caesar* 2016 V.I. LEXIS 18 at *9 (citing *Schneckloth*, 412 U.S at 226-27); *Ambrose* 2013 V.I. LEXIS 60 at *14.

29 *See United States v. Neely*, 564 F.3d 346, 350 (4th Cir. 2009); *accord State v. Copelton*, 140 P.3d 1074, 1078 (Mont. 2006); *see also People v. Anthony*, 761 N.E.2d 1188, 1192-93 (Ill. 2001).

30 *Thomas*, 63 V.I. at 605.

31 *Mallory*, 765 F.3d at 384.

Here, the prevailing consideration is "imminence – the existence of a true emergency."[32] Finally, a search justified by the exigency doctrine "must be strictly circumscribed by the exigencies which justify its initiation."[33] In other words, when the exigent circumstance loses its imminence, so does law enforcement lose the justification supporting a warrantless search. When reviewing a claim that a defendant's Fourth Amendment rights have been violated, courts must judge the facts against the following objective standard: "would the facts available to the officer at the moment of the seizure or the search warrant a man of reasonable caution in the belief that the action taken was appropriate?"[34]

The central focus of the People's argument relies on Schulterbrandt's status as an alleged suspect or alternatively that there were bodies in the apartment. Here, there is no evidence that officers were in pursuit of a fleeing suspect upon entering Schulterbrandt's home. First, by the time officers entered his apartment, Schulterbrandt was already detained and in the custody of officers. Thus, unless officers believed there was an additional suspect, and there is no evidence to support this theory, the officers could not have entered Schulterbrandt's residence with the intent to apprehend a fleeing suspect. Thus, in accordance with Fourth Amendment case law, it would appear that any exigent circumstances ended upon Schulterbrandt's apprehension.[35]

Still assuming, arguendo, that some exigent circumstances existed, the Court next addresses the exigent circumstance of the protection of the life of victims, as a possible rationale for the officers' search of Schulterbrandt's home. In *Thomas*, the Supreme Court addressed exigent circumstances in a similar setting. There, the defendant was removed from his home and taken to the hospital, and officers subsequently performed a warrantless search.[36] The officers reasoned that the search was valid, at least partially, based on their "reasonable belief that there was evidence of a crime on the premises."[37] Finding the search invalid, the court clearly stated, "there is no "murder scene exception" to the warrant requirement of the Fourth Amendment."[38] That being said, this Court does value the role of officers in preserving human life. The list is long of cases that understand the split-second decisions that these officers must make.[39] However, in this present case, it is difficult for the Court to see the officers' exigency toward protecting potential life. There was no evidence of blood or shell casings by the street or outside of the apartment. Similarly, no evidence was presented that Schulterbrandt visibly appeared to have been involved in any criminal activity, outside of the illegally obtained magazine clip. All signs suggest that the altercation or disturbance occurred in the streets of Savan and not at the apartment. Thus, any search attributed to the preservation of life should have been limited to those areas where actual persons may have been found. In fact, officers did such a search in the gut area prior to arriving at Schulterbrandt's home, and found no victims. As the sole tip regarding victims was

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32 *Id.*

33 *Thomas*, 63 V.I. at 606.

34 *Terry*, 392 U.S. at 21-22.

35 *See generally Thomas*, 63 V.I. at 606 (citing *Mincey v. Arizona*, 437 U.S. 385, 392-93 (1978) (holding that searches justified under the exigency doctrine are limited to the duration of the exigency).

36 *Id.*

37 *Id.*

38 *Thomas*, 63 V.I. at 606-07; *accord Mincey*, 437 U.S. at 395 (rejecting the "murder scene exception" even in an apartment where a homicide had recently occurred).

39 *See, e.g., Kentucky v. King*, 563 U.S. 452, 466 (2011).

already shown to be incorrect, officers lacked evidence that victims existed in another area, namely Schulterbrandt's apartment. In light of the aforementioned, we hold that the exigent circumstance of the preservation of life did not exist at the time of the officers' search of the apartment.

The last exigent circumstance that the courts have considered is the need to preserve evidence. In light of the officers lacking the rationale of potential victims or additional fleeing assailants, this too seems unlikely. First, the officers had Schulterbrandt in custody at the time of the search. Of all the persons who would potentially destroy evidence, the most likely one was already in custody. As this Court has already dismissed the possibility of the police pursuing an additional suspect, this too is an inadequate rationale. Even if the officers believed that someone else would return to destroy the evidence later, that would not create a present exigency for the preservation of evidence.[40] Instead, officers, having already quelled any exigencies, and with the scene under control, should have requested a search warrant from a detached magistrate.[41] There was nothing that prevented the officers from remaining while the warrant was obtained to assure the integrity of the premises and to prevent the destruction or removal of evidence.

This Court, finding no exigent circumstances at the time of the officers' search, holds that the exigent circumstances exception cannot support the warrantless search under the facts of this case. Finally, having found that Schulterbrandt did not consent to the search of his apartment, and that the exigent circumstances exception would not support the search, the Court now turns to the last exception available to the People to support the search of the apartment and the seizure of the firearm, namely the plain view exception.

e. Plain View Exception.

One of the well-established exceptions to the warrant requirement, allows police officers to seize evidence found in plain view.[42] However, the plain view doctrine "serves to supplement [a] prior justification", on its own, and it is "never enough to justify a warrantless seizure."[43] Law enforcement officers may seize evidence under the plain view doctrine, so long as the Fourth Amendment was not violated in "arriving at the spot from which the observation... [was] made."[44]

Although Officer Roberts testified that he saw the firearm in plain view while he was on a public street, the officers were not justified in entering the apartment at that point without requesting a warrant from a neutral judicial officer. Again, this Court's role is not to hinder the role of officers making inferences which reasonable men would draw. However, as the Supreme Court noted in *Mincey v. Arizona*, "[Fourth Amendment] protections consist in requiring that those inferences be drawn by a neutral and detached magistrate."[45] Without any warrant exception to justify the initial entry, officers may not rely on the plain view exception to seize the firearm on Schulterbrandt's bed. Thus, all evidence found because of the intrusion into Schulterbrandt's home must be suppressed.

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40 *Thomas*, 63 V.I. at 607.
41 *Katz*, 389 U.S. at 356-57.
42 *Coolidge v. New Hampshire*, 403 U.S. 443, 465 (1971).
43 *Id.* at 466-68.
44 *King*, 563 U.S. at 462-63 (citing *Horton v. California*, 496 U.S. 128, 136-140 (1990)).
45 *Mincey*, 437 U.S. at 395.

CONCLUSION

Based upon the arguments presented, the Court will suppress the evidence in this case including the magazine clip, the firearm, any illegal substances found within Schulterbrandt's apartment, and any statements made by him. Based on the evidence, this Court holds that the anonymous tips lacked the credibility to establish reasonable suspicion that Schulterbrandt was involved in criminal activity, and thus could not have established the basis for stopping and searching him. Additionally, the People have failed to meet their burden of proof of demonstrating that Schulterbrandt voluntarily and willingly gave consent to search his apartment. Furthermore, there were no exigent circumstances that gave need to the officers entering the apartment without a warrant. Finally, failing to prove any of the exceptions to the warrant requirement, the plain view exception did not allow the officers to enter the home without a warrant. As such, all evidence found as a result of the search of Schulterbrandt, and his apartment including the magazine clip, the firearm, any illegal substances and any statements made, must be suppressed.

Dated: August 22, 2016

Hon. James S Carroll III
Senior Sitting Judge of the Superior
Court of the Virgin Islands

ATTEST:

Estrella George
Acting Clerk of the Court

By: _____
Lori Boynes-Tyson
Court Clerk Supervisor 8/23/2016