

NOT FOR PUBLICATION

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

RONALD GILLETTE,

Petitioner,

v.

MILDRED TROTTER, Warden, Golden Grove
Adult Correctional Facility,

Respondent.

SX-14-CV-439

MEMORANDUM OPINION

THIS MATTER comes before the Court on Petitioner Ronald E. Gillette's (hereinafter "Gillette" or "Petitioner") Petition for a Writ of Habeas Corpus (hereinafter "Petition") filed on November 10, 2014. For the following reasons, the Petition will be granted.

BACKGROUND¹

Gillette is a repeat sexual offender who previously spent eighteen years in prison for his unlawful sexual contact with a minor in New Mexico. He moved to the Virgin Islands and allegedly victimized two other children. On October 15, 2007, a federal grand jury handed down a thirty-count superseding indictment charging Gillette with numerous crimes related to his failure to register as a sex offender and his unlawful sexual contact with the two minors. The District Court dismissed the federal crimes and conducted a bench trial on the remaining territorial crimes. Gillette was sentenced to 300 months incarceration at the Golden Grove Correctional Facility. *See United States v. Gillette*, 2012 U.S. Dist. LEXIS 37262 (D.V.I., Mar. 20, 2012).

Gillette challenged his conviction in the district court based on ineffective assistance of counsel, lack of subject matter jurisdiction, violation of due process because of legal incompetence, right to appointed counsel, improper denial of attorney's motion to withdraw, reasonableness of his sentence, and improperly ordering restitution. *See United States v. Gillette*, 738 F.3d 63(3d Cir. V.I. 2013). The Appellate Division of the District Court of the Virgin Islands affirmed his conviction

¹ The factual and procedural background are gathered from *United States v. Gillette*, 738 F.3d 63(3d Cir. V.I. 2013), *Gillette v. Terr. of the V.I.*, 563 Fed. Appx. 191 (3d Cir. V.I. 2014) and the record.

and sentence. *See Gillette v. Terr. of the V.I.*, 563 Fed. Appx. 191(3d Cir. V.I. 2014). On June 2, 2014, the Supreme Court of the United States denied Gillette's writ of certiorari. *See Gillette v. United States*, 134 S. Ct. 2714, 189 L. Ed. 2d 753, 2014 U.S. LEXIS 3925 (U.S., June 2, 2014).

Gillette filed a writ of mandamus with the Supreme Court of the Virgin Islands on June 15, 2015. On June 23, 2015, the Superior Court denied Gillette's motion to transfer or reassign the case because of lack of jurisdiction. *See* June 23, 2015 Order. Subsequently, the court granted Gillette's motion to proceed *in forma pauperis*. *See* July 23, 2015 Order. Gillette petitions this Court to vacate his convictions and grant him a new trial.

JURISDICTION

Title 4, Section 76 (a) of the Virgin Islands Code² implicitly repealed the jurisdiction of the District Court of the Virgin Islands over local civil actions. *Mendez v. Gov't of the Virgin Islands*, 56 V.I. 194, 203 (VI. 2012) (citing *Parrott v. Government of the Virgin Islands*, 41 V.I. 188, 620 (D.C.V.I. 1999)). Consequently, as a successor court to the District Court, the Superior Court has jurisdiction over local habeas petitions even though the District Court sentenced those prisoners. *See Rivera-Moreno v. Government of the Virgin Islands*, 61 V.I. 279, 306 (V.I. 2014) (citing *Parrot* 230 F.3d at 620). But the District Court retains concurrent jurisdiction over charges alleging local crimes that are related to federal crimes pursuant to the 1984 amendments to the Revised Organic Act. *See Id.* at 305 (internal quotation marks omitted). In other words, because of its expanded jurisdiction, the Superior Court has inherent authority to issue writs of habeas corpus even for prisoners sentenced and committed by the District Court for local crimes. *Joseph v. De Castro*, 805 F. Supp. 1242, 1256 (D.V.I. 1992) *See also Rivera-Moreno*, 61 V.I. at 306 (collecting cases).³ Hence, the Superior Court possesses jurisdiction to adjudicate a habeas corpus petition filed under

² Title 4, Section 76 of the Virgin Islands Code provides in pertinent part, "[s]ubject to the original jurisdiction conferred on the District Court by section 22 of the Revised Organic Act of 1954, as amended, effective October 1, 1991, the Superior Court shall have original jurisdiction in all civil actions regardless of the amount in controversy." *See* 4 V.I.C. § 76.

³ *Rivera-Moreno*, 61 V.I. at 306 (noting that the Superior Court may, in a habeas corpus action, set aside a judgment issued by the District Court, so long as the petitioner is detained on charges in which the Superior Court now acts as the successor court to the District Court).

local law that seeks to set aside only the local offenses. *Rivera-Moreno v. Gov't of the V.I.*, S. Ct. Civ. No. 2014-0010, p.13n.9 (V.I. Sept. 26, 2014) (collecting cases).

Here, in a thirty-count indictment, Gillette was charged with myriad federal and territorial crimes in October 2007. After dismissing the federal crimes, the District Court conducted a bench trial on the remaining territorial crimes. As mentioned *supra*, Gillette's habeas petition challenges his conviction and sentence on territorial crimes. Therefore, this Court has jurisdiction over Gillette's habeas petition.

STANDARD OF REVIEW

According to Title 5, Section 1301 of the Virgin Islands Code, "[e]very person unlawfully imprisoned or restrained of his liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint." *See* 5 V.I.C. §1301. A petition must satisfy the following requirements set forth in Title 5, Section 1302 of the Virgin Islands Code:

- (1) It shall specify that the person in whose behalf the writ is applied for is imprisoned or restrained of his liberty and the officer or person by whom, and the place where, he is so confined or restrained, naming all the parties, if they are known, or describing them, if they are not known.
- (2) If the imprisonment is alleged to be illegal, the petition shall state in what the alleged illegality consists.
- (3) The petition shall be verified by the oath of the party making the application.

See 5 V.I.C. § 1302.

DISCUSSION

Gillette seeks habeas corpus relief under Title 5, Section 1301 of the Virgin Islands Code. As explained in *Rivera-Moreno*, when presented with a petition for a writ of habeas corpus, the court must first determine whether the petition states a *prima facie* case for relief— that is, whether it states facts that, if true, entitle the petitioner to relief— and also whether the stated claims are for any reason procedurally barred. 61 V.I. at 311 (internal quotation marks omitted). If the court determines that the petition does not state a *prima facie* case for relief or that the claims are all procedurally barred, the court will deny the petition outright, but if it appears that the writ

out to issue, the Superior court shall grant the writ of habeas corpus without delay. *Id.* (citations omitted and internal quotation marks omitted).

Granting the writ of habeas corpus constitutes an intermediate step in the statutory procedure. *Id.* It does not address the underlying merits of the petition's allegations, nor does it entitle the petitioner to the ultimate relief sought in the petition. *Id.*; cf. *Blyden v. Gov't of the V.I.*, 2016 V.I. Supreme LEXIS 5, *8 (VI. 2016) (internal quotation marks omitted). Instead, issuing the writ and serving it on the Government respondents simply requires the Government to file a return responding to the petition and to produce the petitioner in court for a hearing on the merits of his allegations. *Id.*

1. The Petition Satisfies the Specification of Respondent Requirement under Title 5 V.I.C. § 1302(1).

The Court's first determination is whether the writ was directed to the person having custody of petitioner and whether the writ names all the parties or describes them if they are unknown. See 5 V.I.C. §§ 1305 and 1302(1).⁴ Petitioner must be in substantial compliance with the requirements in order to satisfy the specification requirement under section 1302 (1).

Here, Gillette names Diane Prosper, Warden of the Golden Grove Adult Correctional Facility (hereinafter "Warden") as the Respondent. (Petition ¶5).⁵ Gillette also states that he is currently incarcerated at the Golden Grove Adult Correction Facility under the custody and care of the Virgin Islands Bureau of Corrections. (Petition ¶4). The Court finds that the Petition is in substantial compliance with the specification requirement under section 1302(1).

⁴ Title 5, Section 1305 of the Virgin Islands Code requires that "[t]he writ shall be directed to the person having custody of or restraining the person on whose behalf the application is made." 5. V.I.C. §1305. Section 1302 (1) also states that the writ should "name [sic] all the parties ... or describe them, if they are not known." 5 V.I.C. §1302 (1).

⁵ The Court *sua sponte* amended the caption substituting Mildred Trotter, the current Warden, as the Respondent in place of Prosper.

2. The Petition Satisfies Illegality Requirement under Title 5 V.I.C. § 1302(2).

Next, the Petition must state the alleged illegality by stating a *prima facie* case for relief. See 5 V.I.C. §1302 (2); see also *Blyden* at *8-10. See also *Rivera –Moreno*, 61 V.I. at 311. The court must determine whether the Petition states facts that, if true, entitle the Petitioner to relief and whether any claims are procedurally barred. *Id.* The Superior Court is not precluded from addressing an issue that was previously raised on appeal but not addressed by the Supreme Court. *Id.* at *13 n.6.

Here, the Petition asserts several claims, including ineffective assistance of counsel, that were already addressed in his previous petitions with the District Court and the Appellate Division of the District Court. In response, the Respondents improperly filed a motion to dismiss on the grounds that Gillette's claims were already addressed in his appeal.⁶ However, these claims are not procedurally barred because they were never addressed by the Supreme Court. Upon review of the Petition, the Court finds that Gillette's Petition satisfies the illegality requirement of section 1302 (2).

3. The Petition Satisfies Verification Requirement under Title 5 V.I.C. § 1302(3).

Last, the Petition must satisfy the verification requirement. Title 5, Section 1302(3) requires the Petition to be "verified by the oath of the party making the application." See 5 V.I.C. §1302(3).

Here, Gillette's Petition was verified by oath and was signed by the Petitioner. (Petition at 39). The Court finds that the Petition satisfies the verification requirement under section 1302(3).

CONCLUSION

Based on the foregoing analysis, the Court finds that Gillette has satisfied all of the requirements set forth in Title 5, Section 1302 of the Virgin Islands Code. Gillette has satisfied the

⁶ Procedurally, the Government's motion to dismiss is improper because the Petition does not address the underlying merits of the petitioner's allegations. The Petition is merely an intermediate step. If the writ is granted, the government must file a return responding to the allegations in the habeas corpus petition, which is analogous to a complaint in a civil proceeding. See *Rivera-Moreno*, 61 V.I. at 312.

specification requirement, the Petition has stated a *prima facie* case for habeas corpus relief that is not procedurally barred, and the Petition was signed and verified by oath. Hence, Gillette is entitled to a writ of habeas corpus without delay. An Order consistent with this Opinion follows.

Dated: 3-21-16



Harold W.L. Willocks
Administrative Judge of the Superior Court

ATTEST:
Estrella George
Acting Clerk of the Court

By: 

Court Clerk Supervisor

Dated: 3/21/16