

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

People of the Virgin Islands,

Plaintiff,

SX-12-CR-142

SX-12-CR-143

v.

**AMBROSE DANIEL
HECTOR SANKITTS,**

Defendants.

MEMORANDUM OPINION

THIS MATTER is before the court on Defendant Sankitts Motion for Joinder to join the above captioned case with the matter captioned *People v. Hector Sankitts and Ambrose Daniel*, SX-12-CR-181 and 182. The Co-Defendant in this matter, Ambrose Daniel filed an opposition on October 23, 2011. For the reasons set forth below, Defendant Sankitts Motion will be granted.

FACTS

On March 22, 2012, Hector Sankitts (hereinafter Co-Defendant Sankitts) and Ambrose Daniel (hereinafter Co-Defendant Daniel) were in a vehicle operated by Co-Defendant Daniel when the Virgin Islands Police stopped them. During the stop, the officers found a green substance that later field-tested positive for marijuana. Upon this discovery, both Defendants were arrested and charged with Simple Possession of a Controlled Substance. The vehicle was subsequently impounded and searched pursuant to an obtained search warrant. During the search, Police discovered both a firearm and a package addressed to Co-Defendant Sankitts, which contained a firearm and ammunition. Neither of the Defendants is licensed to carry a firearm in the Virgin Islands. Both Defendants were charged as Co-Defendants in SX-12-CR-181 and 182 with Unauthorized Possession of a Firearm/Principal, Unauthorized Possession of Ammunition/Principal, Failure to Report Firearms/Principal, Possession of Stolen Property/Principal, and Unauthorized Possession of a Firearm. In his motion for joinder, Co-Defendant Sankitts argues that the cases should be joined because they arise out of the same traffic stop, share common parties, and have a transactional nexus. In his opposition, Co-Defendant Daniel argues that if joinder is granted, then he will be prejudiced because the jury will be unable to compartmentalize the evidence.

DISCUSSION

Federal Rules of Criminal Procedure Rule 8(a) governs joinder, which states¹:

The indictment or information may charge a defendant in separate counts with two or more offenses if the offenses charged-whether felonies or misdemeanors or both- are of the same or similar character, or are based on the same act or transactions, or are connected with or constitute parts of a common scheme or plan.

Courts favor joinder of cases because joint trials promote efficiency and serve the interest of justice. *Mosby v. Government of the Virgin Islands*, 2011 WL 4357301 (D.V.I. 2011). Requiring the government to try the respondent before two separate juries for offenses arising out of the same incident is contrary to the plain language of Federal Rule of Criminal Procedure 8(a), which gives the government the presumptive right to charge a defendant in the same information with more than one offense growing out of the same the same incident. *Gov't of Virgin Islands v. Thomas*, 341 F. Supp. 2d 531, 534 (D.V.I. 2004). "In determining whether two offenses ... were properly joined, the reviewing court must look to the indictment and not the subsequent proof adduced at trial." *Maynard v. Gov't of Virgin Islands*, 2009 WL 1083331 (D.V.I. Apr. 17, 2009) *aff'd* but criticized, 392 F. App'x 105 (3d Cir. 2010). As long as the crimes charged are allegedly a single series of acts or transactions, separate trials are not required." *Id.*

In this matter, Co-Defendant Daniel opposes joinder because Co-Defendant Sankitts is individually charged in Count six of the Information for SX-12-CR-181 and 83 with unauthorized Possession of a Firearm. Co-Defendant Daniel argues that if the two cases were joined the Information revealed concerning Count Six would prejudice and detrimentally affect him. Further, Co-Defendant Daniel argues that Count Six is not related to the charges in SX-12-CR 142 and 143 and do not have a transactional nexus.

Co-Defendant Daniel's argument fails because there is clearly a transactional nexus between the offenses. The charges in both cases stemmed from the events that occurred after the Virgin Islands Police Department stopped a vehicle occupied by both Defendants. The case arose as the result of a traffic stop, which lead to the Defendants being charged with Simple Possession of a Controlled Substance. Upon further investigation, evidence was discovered in the vehicle which lead to the Defendants being charged with Unauthorized Possession of a Firearm/Principal, Unauthorized Possession of Ammunition/Principal, Failure to Report Firearms/Principal, Possession of Stolen Property/ Principal, and Co-Defendant Sankitts being

¹ Fed. R. Civ. P. is applicable to the Virgin Islands pursuant to Superior Court. Rule 7.

charged with Unauthorized Possession of a Firearm. These all stemmed for activities alleged to have occurred while both Defendants were in the vehicle on March 22, 2012. As long as the crimes charged are allegedly a single series of acts or transactions, separate trials are not required." *Maynard v. Gov't of Virgin Islands*, CRIM. A. 2001-325, 2009 WL 1083331 (D.V.I. Apr. 17, 2009).

Further, Co-Defendant Daniel's claim that he would be prejudiced if the two cases were joined fails because he is already a Co-Defendant in case in which Co-Defendant Sankitts is charged.

CONCLUSION

Defendants charged in the same information should be tried in a joint trial to promote efficiency and serve the interest of justice. The government has the presumptive right to charge a defendant in the same information with more than one offense growing out of the same transaction or event. *Gov't of Virgin Islands v. Thomas*, 341 F. Supp. 2d 531, 534 (D.V.I. 2004). The charges in SX-12-CR-181&182 and SX-12-CR 142 &143 stem from the same transaction or series of acts. These offenses may properly be joined for trial under Rule 8(a) of the Federal Rules of Civil Procedure. Accordingly, it is hereby

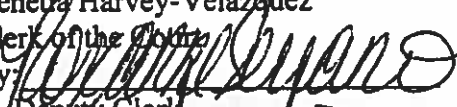
ORDERED that Defendant's Motion for Joinder is **Granted**. *People v. Hector Sankitts and Ambrose Daniel*, Crim. No. SX-12-CR-142 and 143, and *People v. Hector Sankitts and Ambrose Daniel* Crim. No. SX-12-CR-181 and 182 shall be joined and assigned to Judge Harold W.L. Willocks.

DONE and so ORDERED this 17th day of January 2013.

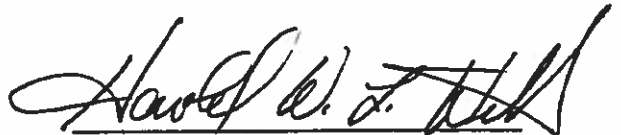
ATTEST:

Venetia Harvey-Velazquez

Clerk of the Court

By: 
Deputy Clerk

Dated: 1/17/13


HAROLD W. L. WILLOCKS
Judge of the Superior Court