

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

PEOPLE OF THE VIRGIN ISLANDS,	)	CRIMINAL NO:
	)	ST-16-CR-294
Plaintiff,	)	
vs.	)	
	)	
SHAQUIELLE CORREA,	)	
	)	
Defendant.	)	

MEMORANDUM OPINION

THIS MATTER is before the Court on Defendant Shaquielle Correa's Motion to Dismiss, filed October 13, 2016. The People opposed the Motion. For the reasons set forth herein, Correa's motion will be denied.

I. Background

On September 16, 2013, the Virgin Islands Police Department (VIPD) investigated a robbery that occurred earlier that morning at the Gems and Gold Corner jewelry store in St. Thomas, Virgin Islands. According to witnesses, the robbers pointed a gun at a worker behind the counter, stole jewelry, and then fled in a dark colored Jeep Wrangler. The VIPD viewed surveillance from the Gems and Gold Corner robbery that showed four suspects, all wearing "brown straw hats." Subsequently, the VIPD identified Shaquielle Correa in other surveillance footage from another store, purportedly showing Correa purchasing the same brown straw hat the day before the robbery.

Approximately two years and eleven months later, on August 26, 2016 a warrant was issued for Correa's arrest. Correa was arrested in St. Croix on

September 4, 2016, and charged with multiple offenses including First and Second Degree Robbery; First and Third Degree Assault; and Unauthorized Use of a Firearm During the Commission of the Assaults and Robberies. Because Correa was seventeen years old at the time of the alleged offenses he was first charged in Family Court as a juvenile (Case No. SX-16-JD-030).¹

On September 12, 2016, the People of the Virgin Islands (People) filed a motion pursuant to 5 V.I.C. 2508(b)(4) to transfer Correa to the criminal division of the Superior Court to be tried as an adult.² On September 16, 2016, the People's motion was granted and the Family Court ordered his transfer to the Criminal Division. On September 22, 2016, Correa was re-arrested and re-charged with the same offenses, but as an adult, which is the case currently before the Court.

II. Discussion

Correa asserts that because the original offense occurred on September 16, 2013, and Correa was not re-arrested as an adult until September 22, 2016, the three-year statute of limitations for his charges has expired and the matter should be dismissed. The Court disagrees.

¹ Defendant Correa was initially arrested on St. Croix. He was, therefore, charged in Family Court in that district as a juvenile (Case No. SX-16-JD-030). The current case is pending in the District of St. Thomas –St. John, where the alleged crimes occurred. However, the difference in the districts is not relevant to the pending motion.

² 5 V.I.C. 2508 (b)(4) states, "If a child or adult is charged with an offense which would be a felony if committed by an adult...The Family Division of the Superior Court, after a determination of probable cause, shall transfer the person for proper criminal proceedings to a court of competent criminal jurisdiction when... the offense now charged is...possession or use of a firearm in the commission of a crime of violence"

The Virgin Island Code requires the People to commence a criminal action for a felony within “three years after [the crime’s] commission.” V.I. Code Ann. tit. 5, § 3541(a)(2).³ However, the Virgin Island Code does not define when or how the People actually commence a criminal action, and the Virgin Islands Supreme Court’s dicta on the matter did not clarify the issue for this Court. In *Miller v. People of the Virgin Islands*, 54 V.I. 398 (V.I. 2010) the Supreme Court of the Virgin Islands suggested the filing date of an information would determine when a criminal prosecution commenced, and cited to *Gov’t of the Virgin Islands v. Moncayo*, 31 V.I. 135 (D.V.I. 1994) for that assertion.⁴ However, when the Virgin Islands District Court decided *Moncayo* it analyzed 5 V.I.C. § 3541 and stated “the court must first determine what acts, *the filing of an information or the issuance of an arrest warrant* within the limitation period, constitute the ‘commencement’ of a criminal action...” *Id.* at 142. (emphasis added). Ultimately, *Moncayo* found the arrest warrant had effectively commenced the criminal action. *Id.*

This Court has previously noted the contrariety between *Moncayo* and *Miller* in *People of the V.I. v. Cummings*, 2016 V.I. LEXIS 60, *3 n.3 (V.I. Super. Ct. May 9, 2016) which stated, “The Virgin Islands Supreme Court has suggested the key date

³ For murder, felony child abuse, felony child neglect, any felony sexual offense perpetrated against a victim, embezzlement of public moneys, and the falsification of public records, there is no limitation of the time within which a prosecution shall be commenced. 5 V.I.C. §3541.

⁴ The *Miller* opinion states “Miller provided the allegedly false military discharge information in May of 2002, and the People did not file the information against him until August of 2008. See *Gov’t of the V.I. v. Moncayo*, 31 V.I. 135, 140 (D.V.I. 1994) (using filing date of information to determine when criminal prosecution commenced).”

is the filing of the information (although it did so in apparent tension with Moncayo, its putative source)."

In any event, this Court is guided by the purpose of 5 V.I.C. § 3541 to determine what commences a criminal action. "Generally, statutes of limitations guard against possible as distinguished from actual prejudice resulting from the passage of time between crime and *arrest or charge*." *Ventura v. People of the Virgin Islands*, 64 V.I. 589, 611 n.10 (VI. 2016) (emphasis added) (internal quotation mark omitted) (citing *U.S. v. Marion*, 404 U.S. 307, 322 (U.S. 1971)). Furthermore, other courts have held that in the absence of legislation specifying otherwise, "it is generally held that the prosecution is commenced, and the statute tolled, at the time a complaint is laid before a magistrate and a warrant of arrest is issued. *State v. Kruelski*, 677 A.2d 951, 955 (Conn. App. Ct. 1996) (collecting cases); see *Moncado*, 31 V.I. at 142 ("generally...when, as is usually the case there are preliminary proceedings, the prosecution is commenced and the statute is tolled at the time a complaint is laid before a magistrate and a warrant of arrest is issued.") (citing 21 Am. Jur. 2d, Criminal Law, § 230, p.417) (collecting cases).

The Court finds that either the issuance of a proper arrest warrant or the filing of an information, whichever is earlier, commences a criminal action for purposes of 5 V.I.C. § 3541. Thus, the statute of limitations on the September 16, 2013 robbery tolled when the Court issued a warrant for Correa's arrest on August 26, 2016. Correa—being seventeen years old at the time of the offense—was arrested and charged as a juvenile. The Family Court concluded that "*transfer* is mandatory

pursuant to the provisions of Title 5, Virgin Islands Code, Section 2508(b)(4) because the alleged offenses included First and Second Degree Robbery, and First and Third Degree Assault, and Unauthorized Use of a Firearm During the Commission of the Assaults and Robberies, which would be felonies if committed by an adult.” *In the Interest of: Shaquille Correa*, Transfer Order, 2 (Sept. 12, 2016) (emphasis added). Upon transfer and re-arrest, Correa was issued a new case number in the Criminal Division of the Court.

Correa’s asserts that because the proceeding in the Family Court and the proceeding in criminal court have different case numbers, “these are separate cases and not a continuation of one another.” Def.’s Mot to Dismiss 2. The Court finds his assertion simply unpersuasive. Correa’s juvenile charges were not dismissed, instead, pursuant to the Virgin Island Code, they were mandatorily *transferred*. 5 V.I.C. 2508(b)(4). ⁵ The transfer was only a procedural event, which occurred in the already-commenced criminal action by the People. Therefore Correa’s motion to dismiss will be denied.

III. Conclusion.

Defendant is charged with a series of crimes that occurred on September 16, 2013. The three year statute of limitations were tolled when an Arrest Warrant was

⁵ See e.g. *State v. Edwards*, 2004 Kan. App. Unpub. LEXIS 321, *1-2 (Kan. Ct. App. Feb. 13, 2004) (“Although many aspects of juvenile proceedings are handled differently from adult criminal prosecutions, these proceedings are included within the definition of “prosecution” for purposes of tolling the statute of limitations.”)

issued for Defendant's arrest on August 26, 2016. The subsequent transfer from juvenile court to adult court and resulting re-arrest of defendant on September 22, 2016 was a procedural event and did not affect the tolling of the statute of limitations.

An Order consistent with this Memorandum Opinion will be entered.

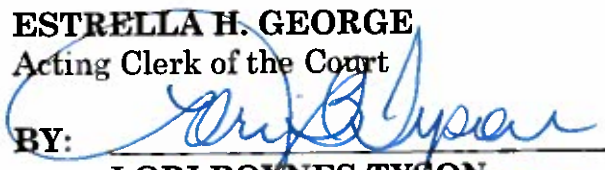
DATED: March 8, 2017



Kathleen Mackay
Judge of the Superior Court
of the Virgin Islands

ATTEST:

ESTRELLA H. GEORGE
Acting Clerk of the Court

BY: 

LORI BOYNES TYSON
Court Clerk Supervisor 3/8/17