

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

**PEOPLE OF THE VIRGIN ISLANDS,**

**PLAINTIFF,**

**SX-14-CR-024**

**V.**

**JUAN ROBLES, JR.,**

**DEFENDANT.**

**MEMORANDUM OPINION**

**THIS MATTER** came before the Court on Defendant Juan Robles, Jr.'s (hereinafter "Defendant") post-trial motion for judgment of acquittal as to the crime of assault in the second degree, an act of domestic violence, pursuant to Federal Rule of Criminal Procedure 29, filed on October 14, 2016. The People of the Virgin Islands (hereinafter "People") filed an opposition thereafter. Defendant did not file a reply.

**BACKGROUND**

On February 3, 2014, the People filed an information charging Defendant with, *inter alia*, assault in the second degree, an act of domestic violence, a violation of Title 14 V.I.C. § 296(3)<sup>1</sup> and Title 16 V.I.C. § 91(b)(1),<sup>2</sup> in connection with the events that took place in the judicial district of St. Croix, U.S. Virgin Islands on or about January 15, 2014. Jury selection and trial for this matter commenced on September 12, 2016 and ended on September 13, 2014. At trial, the jury heard testimony from multiple witnesses by the People, including Nancy Nieves (hereinafter "Ms. Nieves"), who was in a relationship with Defendant on January 15, 2014. Ms. Nieves testified that, *inter alia*, on January 15, 2014, Defendant held her by her neck, held her by her throat, and

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<sup>1</sup> Title 14 V.I.C. § 296(3) provides that "[w]hoever willfully— strangle or attempts to strangle any person in an act of domestic violence— shall be imprisoned not more than 10 years and if the conviction results from an act of domestic violence, the person shall be fined no less than \$1,000 and shall successfully complete certified mandatory Batters Intervention Program.

<sup>2</sup> Title 16 V.I.C. § 91(b)(1) provides that "'[d]omestic violence' means the occurrence of any of the following acts, attempts or threats against a person who may be protected under this chapter pursuant to subsection (c) of this section: Assault."

attempted to strangle her. The People also produced several photographs, including a photograph depicting injuries to Ms. Nieves' neck after her encounter with Defendant on January 15, 2014.

Before the jury began deliberation, the Court provided general and specific instructions to the jury. More specifically, as to assault in the second degree, a violation of Title 14 V.I.C. § 296(3),<sup>3</sup> the Court instructed the jury that "[s]trangulation means to compress a person's neck, thereby obstructing the person's blood flow or ability to breath, or doing so with the intent to obstruct the person's blood flow or ability to breathe." The Court did not provide the jury with a definition for the term "choke." On September 13, 2016, the jury found Defendant guilty of, *inter alia*, assault in the second degree, an act of domestic violence, a violation of Title 14 V.I.C. § 296(3) and Title 16 V.I.C. § 91(b)(1). Thereafter, Defendant filed this instant motion for judgment of acquittal.

## STANDARD OF REVIEW

### A. Motion for Judgment of Acquittal

Federal Rule of Criminal Procedure 29(c)(1) permits a defendant to "move for a judgment of acquittal, or renew such a motion, within 14 days after a guilty verdict or after the court discharges the jury, whichever is later."<sup>4</sup> FED. R. CRIM. P. 29(c)(1). "If the jury has returned a guilty verdict, the court may set aside the verdict and enter an acquittal. If the jury has failed to return a verdict, the court may enter a judgment of acquittal." FED. R. CRIM. P. 29(c)(2). Upon a defendant's motion "the court must enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction." FED. R. CRIM. P. 29(a). If the court reserves decision on the motion, the court "must decide the motion on the basis of the evidence at the time the ruling was reserved." FED. R. CRIM. P.

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<sup>3</sup> *Supra*, fn. 1.

<sup>4</sup> Here, the deadline for Defendant to file his motion for judgment of acquittal was October 1, 2016. Thus, Defendant's motion for judgment of acquittal, filed on October 14, 2016, is deemed untimely. Nevertheless, given that the People did not move to strike Defendant's motion as being untimely, the Court holds that the People waived any objection to its timeliness. *See Destin v. People of the V.I.*, 64 V.I. 465, 468 n.1. (V.I. 2016) ("Although the Superior Court failed to provide an explanation for considering the defendant's untimely motion, the record reflects that the People did not move to strike Destin's motion as being untimely, and therefore it waived any objection to its timeliness.").

29(b). When considering a motion for judgment of acquittal, the court must view the evidence “in the light most favorable to the prosecution to determine whether any rational trier of fact could be found proof of guilt beyond a reasonable doubt based on the available evidence.” *Stevens v. People of the Virgin Islands*, 52 V.I. 294, 305 (V.I. 2013); *Webster v People*, 60 V.I. 666, 678-79 (V.I. 2014) (quoting *Cascen v. People*, 60 V.I. 392, 401 (V.I. 2014)). If a rational trier of fact could have found the defendant guilty beyond a reasonable doubt, and there is substantial evidence to support the conviction, then the Court must sustain the jury’s finding. *Phillip v. People of the V.I.*, 51 V.I. 396, 401 (V.I. 2009). The defendant bears a heavy burden when moving for judgment of acquittal. *Latalladi v. People of the V.I.*, 51 V.I. 137, 145 (V.I. 2009).

### **DISCUSSION**

In his motion for judgment of acquittal, Defendant asserted that: (1) the People failed to establish the elements of assault in the second degree, an act of domestic violence beyond a reasonable doubt, and (2) the Court erred by failing to provide the jury with a definition for the term “choke.” As noted above, the Court instructed the jury that “[s]trangulation means to compress a person’s neck, thereby obstructing the person’s blood flow or ability to breath, or doing so with the intent to obstruct the person’s blood flow or ability to breathe.” Defendant argued that the People failed to elicit any evidence that Defendant compressed Ms. Nevis’ neck and thereby obstructed her blood flow or ability to breathe, or that such an attempt was made. Defendant further argued that, “[w]ithout such evidence, it cannot be determined whether the manner in which the word ‘choke’ was used in trial satisfies the strangulation element of [assault in the second, an act of domestic violence] as defined by the Court.” Thus, Defendant concluded that “there is not sufficient evidence on record to support the jury’s guilty verdict...for [assault in the second, an act of domestic violence].” Furthermore, Defendant argued that “[a]s the word ‘choke’ was used as a synonym for ‘strangle’ in the trial, encompassing all of the elements thereof, the terms should have been defined

for the jury to ensure that the People were held to their burden of proof.” As such, Defendant concluded that the Court erred when it failed to define the term “choke.” Accordingly, Defendant requested the Court to grant his motion for judgment of acquittal.

In their response, the People stated that “it proved each and every element of [assault in the second] beyond a reasonable doubt”—to wit: the People tendered a photograph of Ms. Nieves’ neck which depicted discoloration, scratches, and bruises; Ms. Nieves testified that Defendant caused these injuries when he choked her; Defendant testified that he choked Ms. Nieves when he was trying to get her off of him. Moreover, the People pointed out that “choke and strangle are two words that carry the same meaning.” Accordingly, the People requested the Court to deny Defendant’s motion for judgment of acquittal.

In reviewing Defendant’s motion for judgment of acquittal as to the crime of assault in the second degree, an act of domestic violence, the Court will “view the evidence in the light most favorable to the People and affirm the conviction if any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Webster*, 60 V.I. at 678-79 (quoting *Cascen*, 60 V.I. at 401).

**A. There was Sufficient Evidence Presented by the People to Sustain a Jury’s Verdict of Guilt Beyond a Reasonable Doubt as to the Crime of Assault in the Second Degree, an Act of Domestic Violence**

Here, the jury found Defendant guilty of, *inter alia*, assault in the second degree, an act of domestic violence. Assault in the second degree, as defined in Title 14, section 296(3) of the Virgin Islands Code, is when a person “willfully—strangle or attempts to strangle any person in an act of domestic violence.” To sustain its burden of proof for the charge of assault in the second degree, an act of domestic violence, the People had to show that: (1) on or about January 15, 2014, Defendant used unlawful violence upon Ms. Nieves, to wit: strangled or attempted to strangle her; (2) that Defendant did so with the intent to injure Ms. Nieves; (3) that the assault was an act of domestic

violence; and (4) that the act occurred in the jurisdiction of St. Croix, U.S. Virgin Islands. Ms.

Nieves testified she was in a relationship with Defendant and that, on January 15, 2014, in the jurisdiction of St. Croix, U.S. Virgin Islands, Defendant held her by her neck, held her by her throat, and attempted to strangle her.<sup>5</sup>

Q: And Ms. Nieves on January 15<sup>th</sup> of 2014, where did you live?

A: Caravelle [ ] four, La Grande Princess apartment number thirty eight.

Q: Is that in St. Croix?

A: Yes, ma'am.

Q: At that time were you in a relationship with someone?

A: Yes, ma'am.

Q: [ ] and who was that someone?

A: Juan Robles, Jr.

...

Q: Would you tell the court what happened?

A: Well he attack me he battered me he box me then he take a rolling pin and hit me with it and he kept hitting me and hitting me and hitting me and I fought for my life, I hold on to rolling pin then he still kept on and then he stepped on my stomach and then I plead for my life and he release me and then I got up and I ran to the -- well crawl actually because I was really bruised and battered and I went to the glass door and then he hold me by my neck and attempted to strangle me and hold on to my gagler, and up here and up to my throat and I was able to hold on to the door and just loose off and went out to the porch and scream for help and to the best of [ ] I ability the neighbors already knew something was happening so they came forth and that's how I was safed.

Furthermore, the People produced a photograph that Ms. Nieves confirmed to accurately depicted the injuries to her neck after her encounter with Defendant on January 15, 2014.

Q: Ms. Nieves do you recognize the person in that photo?

A: That's my neck.

Q: And is that a accurate depiction of your neck after the assault on January 15, 2014?

A: Yes. That's at the hospital.

...

MS. HEWITT QUINLAND: I would like to publish the photograph the jury Your Honor, using the Elmo.

THE COURT: That will be plaintiff's exhibit number three.

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<sup>5</sup> Due to the fact that parties did not order the official trial transcript, the following excerpts are taken from the unofficial trial transcript. Thus, citations are not available.

Q: Ms. Nieves would you please describe to the jury what they are seeing?

A: Mm-hmm. That's my neck all right...

...

Q: And how did you receive these injuries

A: With his hands.

Ms. Nieves testified that she did not have any of those injuries prior to her encounter with Defendant on January 15, 2014 and that she received those injuries from Defendant's hands.

Q: And did you have any of those injuries before the attack on January 15, 2014?

A: No.

These facts, when viewed in the light most favorable to the People, represent sufficient evidence from which a jury could find Defendant guilty beyond a reasonable doubt of the crime of assault in the second degree, an act of domestic violence, a violation of Title 14 V.I.C. § 296(3) and Title 16 V.I.C. § 91(b)(1).

**B. The Court Did Not Err When It Did Not Provide the Jury with a Definition for the Term "Choke"**

Defendant's argument that "the word 'choke' was used as a synonym for 'strangle' in the trial" and therefore the Court should have provided the jury with a definition for the term "choke" seems to imply that Ms. Nieves only testified that she was choked by Defendant. However, as noted above, Ms. Nieves testified that Defendant held her by her neck, held her by her throat, and attempted to strangle her. This renders Defendant's argument invalid—to wit, Ms. Nieves did not use the term "choke" as a synonym for the term "strangle" at trial.<sup>6</sup> As such, the Court did not err when it did not provide the jury with a definition for the term "choke."

**CONCLUSION**

In consideration of Defendant's arguments, along with the facts presented in the light most favorable to the People, the Court finds that there was sufficient evidence from which a reasonable

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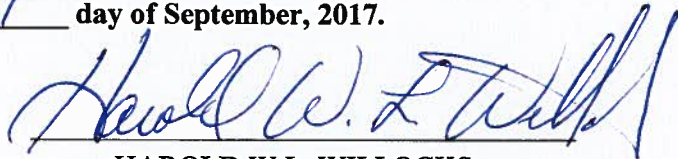
<sup>6</sup> It is incumbent on Defendant to request the official trial transcript when moving for a judgment of acquittal so that his arguments are based on what transpired at trial rather than based on counsel's memory.

jury could find, and did find, Defendant guilty beyond a reasonable doubt for the crime of assault in the second degree, an act of domestic violence, a violation of Title 14 V.I.C. § 296(3) and Title 16 V.I.C. § 91(b)(1). The Court also finds that the Court did not err when it did not provide the jury with a definition for the term “choke” because Ms. Nieves did not use the term “choke” as a synonym for the term “strangle” at trial. Based on the foregoing, the Court will deny Defendant’s motion for judgment of acquittal pursuant to Federal Rule of Criminal Procedure 29. An Order consistent with this Memorandum Opinion will follow.

**DONE and so ORDERED this** 11<sup>th</sup> **day of September, 2017.**

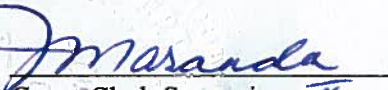
**ATTEST:**

Estrella H. George  
Clerk of the Court



**HAROLD W.L. WILLOCKS**  
**Administrative Judge of the Superior Court**

By:

  
Court Clerk Supervisor II

Dated:

9/12/17