

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

THE PEOPLE OF THE VIRGIN ISLANDS **Plaintiff**)
)
 Vs.)
)
 RALPH EDWARDS TITRE, JR., **Defendant**)

CASE NO. ST-12-CR-0000448

ACTION FOR: 14 V.I.C. 922

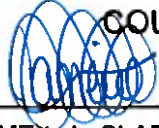
**NOTICE OF ENTRY OF
MEMORANDUM
OPINION & ORDER**

TO: OFFICE OF PROBATION FOR DEFENDANT
EUGENE JAMES CONNOR, JR., ESQ., AAG
ANDREW CAPDEVILLE, ESQ.

Please take notice that on November 18, 2016 a(n) MEMORANDUM
OPINION & ORDER dated November 18, 2016 was entered by the Clerk in the
above-entitled matter.

Dated: November 18, 2016

Estrella H. George
ACTING CLERK OF THE SUPERIOR
COURT


CAMEIL A. CLARKE
COURT CLERK II

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	
Plaintiff,	)	CASE NO. ST-12-CR-448
	)	
v.	)	
	)	
RALPH E. TITRE, JR.,	)	
	)	
Defendants.	)	

MEMORANDUM OPINION

Pending before the Court is Defendant's October 28, 2016, Motion to Dismiss seeking dismissal based on Defendant's right to a speedy trial, which the People opposed on November 4, 2016. For the reasons stated below, the Court will deny the motion.

PROCEDURAL HISTORY

Defendant was arrested on a warrant on August 18, 2012, and bail was set in the amount of \$500,000.00. A detention hearing set for August 24, 2016, was continued until August 29, 2016, on the motion of defense counsel, but the People subsequently withdrew the request for detention and filed a nine count Information charging Titre with murder in the first and second degrees, assault in the first and third degrees, reckless endangerment in the first degree, and four counts of unlawful possession of a firearm during the commission of a crime of violence, all arising from the shooting death of Tiny Jah Jarvis on August 17, 2012.¹ The People provided initial

¹ An Amended Information was filed on January 9, 2013, to add charges of destruction of evidence, misprision of a felony, preparing false evidence, delaying and obstructing an officer (two counts), and contributing to the delinquency of a minor, all related to evidence relevant to this case. The Defendant did not oppose the amendment or, alternatively, consolidation of the case with Case No. ST-12-CR-586, where the additional charges were originally filed, and the Court granted leave for the amendment on June 12, 2013.

discovery on September 7, 2012, filed a substantial supplementation on September 12, 2012, and regularly provided additional supplementations on at least 14 occasions through November 22, 2013. Additionally, Defendant filed extensive Demands for Discovery on September 10, 2012, to which the People responded on September 13, 2012.

On September 5, 2012, Defendant filed a Motion for a Psychological Evaluation and a Motion for the Appointment of an Investigator. The Hon. Adam G. Christian approved appointment of an investigator on September 24, 2012, and set a September 27, 2012, hearing on the request for an evaluation, but Defendant moved to continue that hearing, and it was reset for October 5, 2012. After Defendant submitted the credentials of a proposed clinical psychologist, the Court granted the motion through an Order entered October 22, 2012. Defendant moved for a reduction of bail on October 26, 2012, which the People opposed on October 31, 2012, and the Court set for hearing on January 3, 2013, taking the motion under advisement. Defendant then filed a Motion for Enlargement of Time within which to file pretrial motions on December 7, 2012, and sought funds to retain another expert witness, a firearm instructor, regarding the justifiable use of lethal force. The People opposed the appointment of the expert, and, after the Defendant replied on December 21, 2012, the Court denied the motion without prejudice on June 11, 2013. At the January 3, 2013, hearing, the Court took the bail reduction motion under advisement and granted Defendant's request for an additional 60 day extension of the motions deadline, ultimately extending the discovery deadline until August 16, 2013, and the motions deadline to September 6, 2013.

Through an Order entered June 24, 2013, Judge Christian reduced Defendant's bail to permit the posting of real property to secure Defendant's release and placed Titre on home

confinement with electronic monitoring in the third party custody of his parents.² By Order entered October 11, 2013, the case was set for a pretrial conference on November 8, 2013. But, on October 22, 2013, Defendant's counsel moved to withdraw because she had been nominated for the bench, and new defense counsel was appointed on October 28, 2013. On October 22, 2013, the People moved to continue the jury selection to the next available date after November 11, 2013, and Defendant had no objection.

At a pretrial conference on November 21, 2013, new defense counsel requested an opportunity to compare the defense file with that of the prosecution and was ordered to provide a defense witness list, a Rule 404(b) disclosure, and information concerning a proposed expert witness. Defendant filed a motion seeking funds to retain its expert witness on December 18, 2013. On December 22, 2013, Judge Christian conducted a show cause hearing regarding Defendant's compliance with his release conditions, and the court scheduled another pretrial conference for January 22, 2014, at which several evidentiary matters were discussed.

On January 7, 2014, Defendant filed an Emergency Motion seeking to leave his custodial residence to attend the funeral of his uncle, and a Revised Emergency Motion on January 9, 2014, to adjust the time, which the court granted on January 10, 2014. On March 13, 2014, Defendant filed a Motion for Permission to Leave Custodial Residence for Employment, and the court set a motions hearing for April 11, 2014, at which it denied the motion in part, partially denied Defendant's motion regarding Rule 404(b) evidence, and required Defendant to provide additional information regarding employment, which Defendant submitted on April 16, 2014. Defendant amended his character witness list, provided witness information, and filed a Second Supplement

² It thus appears Defendant was in custody for 314 days.

to the employment motion on April 25, 2014, to which the People filed a supplemental objection on April 28, 2014. A hearing was set for May 5, 2014, but the People moved to continue it on April 29, 2014, to which Defendant had no objection. The court rescheduled the hearing for May 28, 2014, and, through an Order entered June 26, 2014, denied Defendant's motion to retain the expert witness and denied in part Defendant's request to leave his residence for employment. On July 11, 2014, Defendant filed a Third Supplement to the employment motion, later requesting a ruling on September 11, 2014, and the court granted the motion on October 6, 2014.

On September 25, 2014, Defendant's counsel moved to withdraw because he was the victim of an armed robbery and a burglary within one week of each other, had resigned from his firm, and was leaving the Territory. Through another Order entered October 6, 2014, Judge Christian granted the motion, and new defense counsel was appointed on October 12, 2014, only to have that attorney move to be relieved on December 5, 2014. Through an Order entered December 30, 2014, a fourth defense counsel was appointed, the People were instructed to file a Second Amended Information, and the case was set for a status conference on February 3, 2015. However, on January 23, 2015, Defendant's newly appointed counsel appealed the appointment to the Supreme Court, and on February 2, 2015, Defendant moved for a stay of these proceedings pending appeal. Defendant's counsel moved to withdraw on March 2, 2015, and the Court granted that motion through an Order entered May 14, 2015, that also denied the motion for stay and set a status conference for August 18, 2015. Present counsel was then appointed on May 20, 2015. On August 18, 2015, defense counsel filed an Emergency Motion to Continue Status Conference because of lack of notice and a scheduling conflict.

By Order entered July 27, 2015, Judge Christian set a pretrial conference on November 12, 2015, and set jury selection for November 30, 2015. At the pretrial conference the People moved to continue the trial, and the Court granted the motion, instructed the People to extend a plea offer by December 21, 2015, and set a status conference for February 19, 2016. At the status conference, the Court was informed that the medical examiner was unavailable because he had unexpected surgery, and shortened Defendant's curfew, returning his driver's license.

Judge Christian subsequently retired from the bench. Through an Order entered July 14, 2015, Senior Sitting Judge James S. Carroll, III, set a status conference for July 26, 2016, and jury selection for August 8, 2016. At the status conference defense counsel advised the court that a plea offer was under consideration, and the matter remained scheduled for jury selection on August 8, 2016, with a conference scheduled for August 3, 2016. However, on August 3, 2016, neither defense counsel nor counsel for the People appeared. After being informed that defense counsel was in a deposition and thought that the case had been continued, Judge Carroll entered an Order on August 5, 2016, returning the case to the clerk for reassignment because his appointment as Senior Sitting Judge was about to expire. The Case was assigned to the Hon. Denise Francois, who had been Defendant's initial counsel, and she recused herself through an Order entered September 8, 2016. On September 15, 2016, the case was reassigned to the undersigned, who scheduled the case for pretrial conference on October 31, 2016, and for jury selection on November 21, 2016. Defendant filed the Motion to Dismiss currently before the Court on October 28, 2016, which the People opposed on November 4, 2016.

STANDARDS

The Sixth Amendment³ provides that, “[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.”⁴ However, as the United States Supreme Court has noted, “it is impossible to determine with precision when the right has been denied... in a system where justice is supposed to be swift but deliberate.”⁵

Thus, when a post-accusation violation of the speedy trial right is asserted, this Court applies the balancing test detailed in *Barker v. Wingo*⁶, which requires a court to balance the length of delay, the reason for the delay, the defendant’s assertion of his right, and the prejudice to the defendant.⁷ None of these four factors is either a necessary or sufficient condition to a finding of a deprivation of the right to a speedy trial.⁸ Rather, they are related factors and must be considered together with other circumstances that may be relevant.⁹

ANALYSIS

1. Length of Delay

The length of the delay is largely a triggering mechanism.¹⁰ Until there is some delay which is presumptively prejudicial, there is no necessity for an inquiry into the other factors that go into the *Barker* balance.¹¹ Generally, delay is measured from the date of arrest or formal

³ While the federal Speedy Trial Act of 1974, 18 U.S.C. §§ 3161-74, is not applicable to the Superior Court of the Virgin Islands and no similar local statute has been enacted, a defendant’s Sixth Amendment right to a speedy trial is applicable to the Virgin Islands through Section 3 of the Revised Organic Act. See *People of the Virgin Islands v. Ilarraza*, 2013 V.I. LEXIS 70, *6 (V.I. Super. Ct. Dec. 5, 2013), citing *Carty v. People of the Virgin Islands*, 56 V.I. 345, 364 (2012).

⁴ U.S. Const. amend. VI.

⁵ *Barker v. Wingo*, 407 U.S. 514, 521 (1972).

⁶ 407 U.S. 514 (1972).

⁷ *Barker*, at 530; see *Francis v. Virgin Islands*, 2015 V.I. LEXIS 35, *31-32 (V.I. 2015).

⁸ *Barker*, at 533.

⁹ *Id.*

¹⁰ *Barker*, at 530.

¹¹ *Id.*

charging, whichever is earlier, until the start of trial.¹² A delay of one year or more is usually considered to be presumptively prejudicial.¹³

Titre was arrested on August 18, 2012. Because jury selection is now scheduled for November 21, 2016, a minimum of four years and three months will pass before this cases can be tried. The length of delay is considerable, and the Court finds it to be presumptively prejudicial and sufficient to trigger an inquiry into the three remaining *Barker* factors.

2. Reason for Delay

This second *Barker* factor examines whether primary responsibility for the delay lies with the prosecution, the accused, or with the court.¹⁴ Not all delays are the same, and trial courts should consider the reason for delay when assigning weight.¹⁵ “A deliberate attempt to delay the trial in order to hamper the defense should be weighted heavily against the government.”¹⁶ On the other hand, “[a] more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant.”¹⁷ Delays resulting

¹² *Ilarraza*, at *7.

¹³ See *Francis*, at *36-37 (holding a delay of 15 months as presumptively prejudicial); *Carty v. Virgin Islands*, 56 V.I. 345, 365 (V.I. 2012) (holding a delay of 25 months as presumptively prejudicial); *United States v. Battis*, 589 F.3d 673, 678 (3d. Cir. 2009) (holding a delay of 14 months as presumptively prejudicial); see also *People of the Virgin Islands v. James*, 2012 V.I. LEXIS 35, *6 (V.I. Super. Ct. July 27, 2012).

¹⁴ *Francis*, at *37 (citing *Vermont v. Brillon*, 556 U.S. 81, 82 (2009) (citations omitted); see also *People of the V.I. v. Hakim*, 2014 V.I. LEXIS 67, *8 (V.I. Super. Ct. Aug. 21, 2014).

¹⁵ *Francis*, at *37 (citing *Doggett v. United States*, 505 U.S. 647, 651 (1992) (citations omitted).

¹⁶ *People of the V.I. v. Francis*, 2016 V.I. LEXIS 37, *4-5 (V.I. Super. Ct. Aug. 21, 2016) (citing *Barker*, at 531).

¹⁷ *Francis*, at *43 (citing *Barker*, at 531); see also *Barker*, at 526 (“A defendant has no duty to bring himself to trial”).

from valid reasons such as case complexity,¹⁸ good faith interlocutory appeals,¹⁹ or the defendant's actions²⁰ do not weigh against the prosecution at all.

In its early stage, this case moved steadily forward through a flurry of discovery disclosures from the People and extensive motion practice from Defendant. The record reflects that much of the first year and a half of the "delay" was consumed in conducting hearings and deciding some 11 pretrial motions filed by Defendant, one of which was supplemented three times. While not controlling here, it is instructive that time periods necessary to decide defense pretrial motions are excluded from consideration under the federal Speedy Trial Act.²¹ Present counsel is the fifth to represent Defendant, the previous four having moved to withdraw, further delaying the proceedings in excess of a year through no fault of the People or the court. The case was also delayed because of the death of the assigned prosecutor, and later, due to the unavailability of the medical examiner after an unexpected surgical procedure that kept him from appearing in court for several months, time that would also be excluded under the Speedy Trial Act.²²

The Court notes that the People moved for continuances on three occasions, but the delays attributable to those motions were comparatively brief. The first was on October 22, 2013, when Defendant's first counsel moved to withdraw. The defense raised no objection, new defense counsel was appointed six days later, and three weeks after his appointment Defendant's new attorney requested time for an opportunity to compare his file with that of the prosecution. On

¹⁸ *United States v. Abad*, 514 F.3d 271, 274-75 (2nd Cir. 2008) (31 month delay attributable to discovery and pretrial motions was not weighed against government).

¹⁹ *United States v. Loud Hawk*, 474 U.S. 302, 316 (1986); *V.I. v. Birmingham*, 788 F.2d 933, 937 (3rd Cir. 1986).

²⁰ *Vt. v. Brillan*, 129 S.Ct. 1283, 1291-92 (2009) (three year delay due to Defendant's firing of his first counsel on eve of trial and threatening another counsel was not weighted against the government).

²¹ 18 U.S.C. § 3161(h)(3)

²² *United States v. Allen*, 235 F.3d 482, 491 (10th Cir. 2000) (delay was excludable because essential witness was unavailable).

April 29, 2014, the People moved to continue a hearing scheduled for May 5, 2014, regarding Defendant's emergency motion requesting permission to leave Defendant's custodial residence for employment, again with no objection from Defendant. Judge Christian continued the hearing until May 28, 2014, a delay of less than a month. Finally, on November 12, 2015, the People asked to continue the jury selection scheduled for November 30, 2014. Less than three months thereafter, at a status conference on February 19, 2016, the unavailability of the medical examiner came to light, necessitating a further delay of several months. Of course, the subsequent retirement of Judge Christian and the inability of Judge Carroll to successfully schedule the case for trial must be put on the doorstep of the court.

There have been delays that can be attributed to the Defendant, the People, or both, as well some that must be assigned to the court. The People's requests for continuances have been responsible for only roughly five months of the four year, three month, delay in bringing this case to trial. Defendant's pretrial motions consumed roughly a year and a half, and the withdrawal of four defense attorneys consumed the better part of another year. While this latter time is certainly not Titre's fault, since none of the withdrawals was based upon a lack of cooperation, a breakdown in communication, or other matters caused by Titre, these delays similarly cannot be laid at the feet of the People. Further, the Court finds that the bulk of the remaining portion of the delay in this case lies with the court, primarily because of the retirement of Judge Christian and the period of time during which Judge Carroll presided over this case but was unable to bring it to trial. Considering all these components, the Court determines that this factor does not weigh in favor of Defendant.

3. Defendant's Assertion of the Right to a Speedy Trial

In examining a defendant's assertion of the right to a speedy trial, the trial court should "exercise judicial discretion based on circumstances, including due considerations of any applicable formal procedural rule."²³ When balancing this factor against the others, courts have recognized that, generally, "the more serious the deprivation, the more likely a defendant is to complain."²⁴ As such, a defendant's assertion of this right, is "entitled to strong evidentiary weight in determining whether the defendant is being deprived of the right."²⁵ To assert a successful right to a speedy trial, a defendant who is represented by counsel,²⁶ must "identify a motion or evidence of direct instructions to his counsel to assert that right at a time when a formal assertion of his rights would render some chance of success."²⁷

The record shows that Titre first asserted his right to a speedy trial at arraignment on August 29, 2012, but was thereafter entirely silent until filing the current motion to dismiss on October 28, 2016, over four years later. Defendant requested continuances at least four times, requested a stay in order for the Supreme Court to consider an appeal, requested an extension of the motions deadline, and had no objection on two of the three occasions on which the People requested a continuance. Moreover, until recently, it appears Titre was soliciting and considering a plea agreement.²⁸ Against this background, the motion to dismiss must be viewed more as a tactical measure rather than a true request for relief from prejudicial delay. The Court considers

²³ See *Barker*, at 528-29 (noting that different weights should be attributed to situations where a defendant knowingly fails to object and a situation where an attorney acquiesces in a long delay without the knowledge of his client).

²⁴ See, e.g., *Carty*, 56 V.I. at 366; citing *Barker*, at 531.

²⁵ *Barker*, at 531-32.

²⁶ Courts have recognized a different standard for asserting speedy trial rights for defendants proceeding *pro se*. See *Francis* at *44.

²⁷ *Id.* (quoting *Carty*, at 367).

²⁸ See *People v. Hakim*, 2014 V.I. LEXIS 67 (V.I. Super.Ct. 2014) (holding that attempting to negotiate a plea agreement is inconsistent with an assertion of the right to a speedy trial).

Titre's assertion of his right to a speedy trial to be minimal, and finds that this factor weighs only slightly in Titre's favor, if at all.

4. Prejudice to Defendant

The final factor is prejudice to the accused, who has the burden of proving prejudice.²⁹ Courts are almost uniformly reluctant to find a violation of the right to a speedy trial in the absence of a showing of prejudice, and judges generally refuse to find the requisite degree of prejudice based on unsubstantiated claims that the delay caused the defendant's or witness' memories to diminish,³⁰ precluded the discovery of witnesses,³¹ resulted in the loss of evidence or death of witnesses,³² or caused witnesses to refuse to testify.³³

In *Barker*, the Supreme Court stated that this factor should be assessed in light of the interests that the speedy trial right was designed to protect,³⁴ identifying three cognizable interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired.³⁵

a. Oppressive Pretrial Incarceration

²⁹ *Carty*, at 367.

³⁰ *United States v. Benson*, 487 F.2d 978, 985-86 (3rd Cir. 1973) (claim that witness' memory faded due to 34 month delay was insufficient to establish prejudice because defendant had access to other information in discovery and under a statute).

³¹ *United States v. Stokes*, 124 F.3d 39, 47 (1st Cir. 1997) (claim that five year delay prevented defendant from locating witness was insufficient to show actual prejudice).

³² *United States v. Henderson*, 337 F.3d 914, 920 (7th Cir. 2003) (claim that five year delay caused actual prejudice was insufficient because defendant did not show that deceased witness' testimony would have aided him).

³³ *United States v. Duncan*, 763 F.2d 220, 222 (6th Cir. 1985) (claim that delay resulted in former girlfriend's refusal to testify was not sufficiently prejudicial to justify dismissal because there was no indication former girlfriend would aid defense).

³⁴ *Barker*, at 532.

³⁵ *Id.*

The amount of time a defendant is detained is not dispositive of whether the pretrial conditions were oppressive.³⁶ The oppressiveness of the pretrial conditions must worsen to a point where the physical or mental integrity of the accused is placed in jeopardy.³⁷ The defendant must provide proof of substandard conditions or other oppressive factors beyond those that necessarily attend imprisonment.³⁸

Defendant was held in custody for the first ten months after his arrest. While that is certainly a significant period of time, Titre's posting of a property bond was delayed for some time for evaluation and clarification regarding the real property used as security. Further, any adverse impact of Titre's incarceration was ameliorated when Titre was released to home confinement with electronic monitoring, upon which he has remained for the past three and one-half years. Titre's release was subsequently modified to permit him to work, and thereafter restrictions on his movement were again lessened. Defendant's driver's license has even been returned.

.Defendant has mentioned no jail conditions that seriously impacted his physical or mental well-being, has not suggested that he was assaulted or harassed while in custody, and has not complained that his incarceration was somehow unique from that ordinarily encountered by one who is confined. Against this background, the Court cannot find that Defendant suffered oppressive pretrial incarceration.

b. Anxiety and Concern of the Accused

³⁶ *Hakim*, at *13.

³⁷ *Ilaraza*, at 13 (citing *Wells v. Petsock*, 941 F.2d 253, 257 (3d Cir. 1991)).

³⁸ *Hakim*, at *14.

“Courts have recognized that a certain amount of anxiety and other forms of personal prejudice to the accused is inevitable in a criminal case.”³⁹ When evaluating a defendant's claim of a speedy trial violation, anxiety must be something more.⁴⁰ “In order to reach that level, the petitioner must produce evidence of psychic injury” that can be demonstrated by showing “some objective manifestation of distress”.⁴¹ “Vague allegations of anxiety are insufficient to state a cognizable claim.”⁴²

The threshold set out by the Third Circuit requires the Defendant to produce specific evidence that his mental condition has been directly affected by his excessive pretrial incarceration, and that his condition is serious enough to warrant medical concern.⁴³ In *Burkett v. Fulcomer*,⁴⁴ the Third Circuit found that symptoms such as the inability to eat and sleep, loss of a fiancé who ended the relationship because of the uncertainty of the length of incarceration, and reduction of a defendant to tears by frustration over the delay in disposition of his post-trial motions and sentencing were sufficient to show anxiety.⁴⁵

Simply put, other than one passing reference to unspecified “personal anxiety”, Titre does not allege that he suffered any emotional or other personal prejudice as a result of the delay in bringing this case to trial, nor does he describe the form, extent, or impact of the “personal anxiety”. Lacking any specific evidence of personal anxiety beyond the unsupported allegation of

³⁹ *United States v. Dreyer*, 533 F.2d 112, 116 (3d Cir. 1976).

⁴⁰ *Ilarraza* at *14.

⁴¹ *Id.*

⁴² See *Hakeem v. Beyer*, 990 F.2d 750,762 (3rd Cir. 1993).

⁴³ *Hakim*, at *16.

⁴⁴ 951 F.2d 1431 (3rd Cir. 1991)

⁴⁵ *Burkett v. Fulcomer*, 951 F.2d 1431, 1443-44 (3rd Cir. 1991).

counsel, the Court is compelled to find that Titre has failed to meet the threshold requirement for demonstrating this type of prejudice.

c. The Possibility that the Defense will be Impaired

This factor is the most serious because the inability of a defendant adequately to prepare his case skews the fairness of the entire system.⁴⁶ However, Courts have recognized that delay is a two-edged sword. On one hand the government bears the burden of proving its case beyond a reasonable doubt, but the passage of time may make it difficult or impractical for the government to carry its burden.⁴⁷ By contrast, impact on one's defense is the most difficult form of speedy trial prejudice to prove because time's erosion of exculpatory evidence and testimony can rarely be shown.⁴⁸ As the People point out in their Opposition, the mere possibility of prejudice is not sufficient to support a finding of a violation of the right to a speedy trial.⁴⁹

Defendant does minimally assert that his defense has been prejudiced by the delay. Specifically, he states: "...Defendant has and will continue to suffer an array of prejudices including the unavailability of potential defense witnesses, the inexorable failure of Defendant's and others' memories, and Defendant's personal anxiety and ongoing bail restrictions. The delay has also caused the potential loss of exculpatory evidence and defense witnesses."⁵⁰

However, apart from this statement, Defendant offers no evidence in support of his claim. Titre does not name a single defense witness that is unavailable. While memory certainly fades

⁴⁶ *Barker*, at 532.

⁴⁷ *Illaraza*, at *16 (citing *Loud Hawk*).

⁴⁸ *Doggett v. United States*, 505 U.S. 647, 655 (1992).

⁴⁹ *Hakeem*, at 760.

⁵⁰ Motion to Dismiss, at 5.

over time, the bulk of the persons named on Defendant's witness list are character witnesses, and it is unlikely that their opinion regarding Titre's character or their knowledge of his reputation in the community has been significantly affected by the passage of time. Defendant does not describe a specific piece of exculpatory evidence or name a defense witness that has been lost while this case was coming to trial, and the Court has already discussed Defendant's assertions of "personal anxiety and ongoing bail restrictions."

In sum, Titre has failed to demonstrate any adverse evidentiary impact or similar prejudice arising from the delay in bringing this case to trial. Thus, the Court must conclude that Titre has utterly failed to demonstrate prejudice. Balancing the factors set out in *Barker*, while the length of delay is presumptively prejudicial, neither the reason for the delay, the assertion of the right to a speedy trial, nor the determination of actual prejudice weighs in favor of dismissing this case on the eve of trial because of a violation of Titre's right to a speedy trial.

Conclusion

For the reasons stated, and after consideration of the *Barker* factors, the Court has determined that Titre's right to a speedy trial under the Sixth Amendment and Revised Organic Act has not been violated. Consequently, Defendant's Motion to Dismiss is denied. An Order consistent with this Opinion shall issue.

Dated: November 18, 2016

ATTEST: Estrella H. George
Acting Clerk of the Court

by:

Lori Boynes-Tyson
Court Clerk Supervisor


HON. MICHAEL C. DUNSTON
Judge of the Superior Court
of the Virgin Islands

CERTIFIED A TRUE COPY

DATE:

11-18-16
ESTRELLA H. GEORGE
Acting Clerk of the Court

By:


Camell A. Clarke
Court Clerk II

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS,

Plaintiff,

v.

RALPH E. TITRE, JR.,

Defendants.

CASE NO. ST-12-CR-448

ORDER

The Court having rendered a Memorandum Opinion on this date, it is

ORDERED that Defendant's Motion to Dismiss for violation of his right to a speedy trial is DENIED; and it is

ORDERED that this case remains scheduled for jury selection on Monday, November 21, 2016, at 9:00 a.m.; and it is

ORDERED that copies of this Order shall be directed to counsel of record.

DATED: November 18, 2016.

ATTEST: Estrella H. George
Acting Clerk of the Court

HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

by:

Lori Boynes-Tyson
Court Clerk Supervisor

CERTIFIED A TRUE COPY

DATE:

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Court Clerk II