

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

PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	CRIMINAL NO. ST-2016-CR-0000086
Plaintiff,	)	
vs.	)	
	)	V.I. Code Ann. tit. 14, § 1508
CHRISTAL FLOYD,	)	
(D.O.B.: 12-27-83)	)	
Defendant.	)	
	)	

MEMORANDUM OPINION

Before the Court is Defendant's Revised Motion Seeking Immediate Dismissal of All Charges Filed Against the Defendant by This Court, filed April 13, 2016, and Defendant's Motion to Dismiss Due to Lack of Due Process and Perjury, filed April 13, 2016.¹ Defendant presents several reasons for dismissal of the charge against her. The Court will deny both Motions. A separate Order will follow.

BACKGROUND

On February 17, 2016, Officer Vernon Carr and Officer Gabriel Reed stopped a black Acura ILX with license plate TEU-425 driven by Charles Stuckey and belonging to Defendant Christal Floyd. According to the Probable Cause Fact Sheet, the police officers stopped the vehicle because of dark tint and a non-functioning brake light. The officers stated the vehicle's description and license plate matched a vehicle allegedly involved in a robbery and kidnapping that occurred February 15, 2016.

The vehicle then was taken to the Richard Callwood Command and parked under the Sally Port.

Later, Defendant arrived at the police station and requested that her vehicle be returned to her. Detective Ivan Christopher claims that Detective Sergeant Stanley Cannonier explained to the Defendant that her vehicle was involved in a criminal investigation.

Defendant attempted to retrieve her vehicle from the parking lot at the Sally Port, where Christopher and other police officers informed Defendant that the area was a restricted area and she could not enter. While Defendant was demanding that the police officers release her vehicle, an officer driving a Bureau of Corrections van attempted to leave the parking lot from the Sally Port but was blocked by Defendant. Detective Christopher claims Defendant refused to move out of the way.

¹ The People are represented by William K. Evans, Assistant Attorney General, and the Defendant is appearing *pro se*.

Defendant then was physically forced out of the way of the van and arrested. Christopher also claimed Defendant locked her arms during her arrest and the officers struggled to handcuff her.

Christopher asserted in the Probable Cause Fact Sheet that the Bureau of Corrections officer operating the van stated he was delayed picking up prisoners from the Court because the Defendant was in his way.

The Defendant was charged with violating 14 V.I.C. § 1508 [Interfering with an officer discharging his duty] and 14 V.I.C. § 622(1) [Disturbing the peace]. However, it appears the charge of disturbing the peace was dropped because it was not stated in the Complaint, filed on March 1, 2016.

Subsequently, March 3, 2016, Defendant filed a Motion Seeking Immediate Dismissal of All Charges Filed Against the Defendant by This Court. Then, Defendant filed her Revised Motion Seeking Immediate Dismissal of All Charges Filed Against the Defendant by This Court on April 13, 2016. Defendant also filed a Motion to Dismiss Due to Lack of Due Process and Perjury on April 13, 2016.

ANALYSIS

The Court will address each Motion separately. Defendant's Motions assert several claims and rights, many of which are irrelevant to the single charge filed against her.

As a preliminary matter, the Court notes Defendant asserts a Sixth Amendment right to be "informed of the nature and cause of action" brought against her in Paragraph 6 of both Motions. First, the record shows that Defendant appeared before Magistrate Carolyn P. Hermon-Percell on February 19, 2016 and was informed of the charges against her and her constitutional rights. Also, Defendant appeared for her arraignment on March 3, 2016, where she was informed of the Complaint against her. Lastly, it is apparent from her Motions that Defendant was informed of the charge brought against her.

In Paragraph 6, Defendant also asserts a right to be informed of the Court's jurisdiction in this case. The issue of proper jurisdiction is addressed below.

In addition, Defendant claims she is "under the protection of the Title Four American Civil Peacetime Flag."² The Court finds this claim to be meritless and irrelevant. The United States of America does not have an "American Civil Peacetime Flag." The United States only has one national flag and it is displayed during peacetime and wartime.³

The idea of a civil peacetime flag, a flag that is flown during peacetime and provides a different set of rights from a flag flown during wartime, is a myth derived from Nathaniel Hawthorne's novel *The Scarlet Letter*. In the novel, Hawthorne describes the flag used by U.S.

² Rev. Mot. Seeking Immediate Dismissal of All Charges Filed Against the Def. By this Ct. ¶ 4.

³ See 4 U.S.C. §§ 1 to 10.

Customs and Border Protection and erroneously states it had 13 stripes.⁴ The novel states that the flag indicated that the building was a civilian post, instead of a military post.⁵ The passage reads, “From the loftiest point of its roof, during precisely three and a half hours of each forenoon, floats or droops, in breeze or calm, the banner of the republic; but with the thirteen stripes turned vertically, instead of horizontally, and thus indicating that a civil, and not a military, post of Uncle Sam’s government is here established.”⁶ This passage led to an urban legend about the existence of an American civil flag, distinct from the actual American flag.

Defendant claims she is a “private Sovereign.”⁷ The Court also finds this assertion to be meritless. The Defendant is not a sovereign and must abide by the authority vested in the Court.⁸ The U.S. Court of Appeals for the Third Circuit summarily dismissed a similar argument by a criminal defendant claiming a court did not have jurisdiction over him because he was a sovereign entity.⁹

Defendant asserts she reserves all rights under the Uniform Commercial Code 1-308 (“UCC”). The UCC concerns sales and other commercial transactions. Therefore, the UCC is irrelevant in the case before the Court.

Defendant points out that the charges against her on the Order Appointing Counsel form, dated February 18, 2016, are incorrectly labeled as felonies. Defendant is correct. 14 V.I.C. §§ 622(1), 1508 should have been labeled as a misdemeanor.

I. The Court Will Deny the Motion to Dismiss Due to Lack of Due Process and Perjury.

From what it can decipher from the Motion, the Court understands that Defendant asserts that the Court should dismiss the case against her because:

- a) Officers Carr and Reed allegedly violated Defendant’s right to due process by seizing her vehicle because they did not present her with a warrant or probable cause evidence before seizing her car,
- b) Defendant was justified in interfering with an officer discharging his duties because police officers unlawfully seized her vehicle, and
- c) Detective Christopher allegedly committed perjury in his Probable Cause Fact Sheet, filed February 18, 2016, and/or the Complaint, filed with the Court on March 1, 2016.

⁴ The U.S. Customs flag has 16 vertical stripes to commemorate the 16 states in the Union at the time the flag was adopted. For a general history of the flag, see *Flag Day: CBP’s Ensign Was America’s First For Government Agency*, U.S. CUSTOMS AND BORDER PROTECTION (June 11, 2010), <http://www.cbp.gov/newsroom/spotlights/2010-06-11-040000/flag-day-cbps-ensign-was-americas-first-government-agency>.

⁵ NATHANIEL HAWTHORNE, *THE SCARLET LETTER* 75 (Planet PDF, originally published 1850), available at http://www.planetpublish.com/wpcontent/uploads/2011/11/The_Scarlet_Letter_T.pdf.

⁶ *Id.*

⁷ Rev. Mot. Seeking Immediate Dismissal of All Charges Filed Against the Def. By this Ct. ¶ 4.

⁸ See *Sovereign*, BLACK’S LAW DICTIONARY (2nd Pocket Ed. 2001).

⁹ *United States v. Weicksel*, 375 Fed. App’x 261, 266 (3d Cir. 2010).

The Court will address each claim in the order provided above.

a) The Defendant claims Detective Ivan Christopher allegedly unlawfully seized her vehicle by not presenting her with a warrant or probably cause evidence before seizing her car.

Defendant correctly states that the Fourth Amendment of the U.S. Constitution protects the public against searches and seizures without probable cause. While it is true that Defendant's vehicle was impounded by the police at the Richard Callwood Command, the circumstances surrounding her arrest are not based on evidence obtained by the search or seizure of the vehicle. Defendant is accused of violating 14 V.I.C. § 1508 by refusing to leave a restricted area, preventing a Bureau of Corrections van from leaving the Sally Port entrance of the Richard Farrelly Justice Complex, and struggling during an arrest.

Even if the Court were to conclude that the seizure and impoundment of Defendant's vehicle was unconstitutional, the impoundment of the vehicle is far removed from the charge against her.

Furthermore, aside from the case law holding police officers typically do not need a warrant to search and seize a car,¹⁰ Defendant is mistaken as to the requirements and procedures for obtaining a warrant. Police officers do not have to present the vehicle's owner with probable cause before seizing a vehicle. If police officers do need to obtain a warrant prior to seizing or searching a vehicle, probable cause must be demonstrated to a judge or magistrate judge.

b) The Defendant claims she was justified in allegedly interfering with an officer discharging his duties because police officers unlawfully seized her vehicle.

The Defendant's motion also appears to claim that the police officers' allegedly unlawful actions justified her own, stating "[t]he fact is if my vehicle was not parked in that area, under the command of police officers, I would not have been arrested for allegedly '[i]nterfering with officer discharging his duties.'"¹¹ The defense that Defendant asserts is not related to the charge brought against her. The disagreement she had with Christopher and other police officers about the impoundment of her vehicle is separate and distinct from her blocking the Bureau of Corrections van. Even if the Court entertains the notion that the seizure of Defendant's vehicle violated her due process rights, such a violation would not allow Defendant to commit other crimes unrelated to her vehicle's impoundment.

¹⁰ See, e.g., *Cardwell v. Lewis*, 417 U.S. 583, 597 (1974); *United States v. Burton*, 288 F.3d 91, 100 (3d Cir. 2002); *United States Polanco*, V.I. 744, 749 (D.V.I. 2007) (citing *Ornelas v. United States*, 517 U.S. 690 (1996)).

¹¹ Def. Motion to Dismiss Due to Lack of Due Process and Perjury ¶ 7.

c) The Defendant claims Detective Christopher allegedly committed perjury in his Probable Case Fact Sheet, Dated February 18, 2016, and Complaint, filed on March 1, 2016.

The crime of perjury involves the willful and knowing declaration of statements a person knows to be false while under oath.¹² While a conviction obtained by the knowing use of perjury is fundamentally unfair¹³ and it is well-settled law that courts have the implicit supervisory authority to dismiss a criminal case for improper governmental conduct,¹⁴ an examination of the record does not reveal that Detective Christopher intentionally or knowingly made false statements and there is not enough evidence before the Court to determine that the government acted improperly so as to call for immediate dismissal.¹⁵

II. The Court Will Deny Defendant's Revised Motion Seeking Immediate Dismissal of All Charges Filed Against the Defendant by This Court.

In her Revised Motion Seeking Immediate Dismissal of All Charges Filed Against the Defendant by This Court, filed April 13, 2016, Defendant asserts that the Court lacks jurisdiction of this case. Specifically, the Motion asserts the Court lacks subject matter jurisdiction but Defendant also references personal jurisdiction.

Congress, through an amendment to the Revised Organic Act of 1954, bestowed concurrent jurisdiction to the Superior Court over criminal offenses arising out of violations of local law.¹⁶ The Virgin Islands Code vests the Superior Court with original jurisdiction over all local criminal offenses.¹⁷ Therefore, the Court has subject matter jurisdiction to hear this case.

Lastly, a court has personal jurisdiction in a criminal case when a defendant is accused of committing a crime in the jurisdiction in which the court resides. In addition, a court obtains personal jurisdiction over a criminal defendant on the date he or she appears before the court, usually for arraignment.¹⁸ Defendant appeared for her arraignment on March 3, 2016.

¹² 14 V.I.C. § 1541.

¹³ *People of the Virgin Islands v. Ward*, 52 V.I. 71, 93 (V.I. Super. Ct. 2009).

¹⁴ *People of the Virgin Islands v. Donastorg*, 2010 V.I. LEXIS 53, at *5 (V.I. Super. Ct. 2010).

¹⁵ See *United States v. Hoffecker*, 530 F.3d 137, 154 (3rd Cir. 2008) ("The Government's conduct can be regarded as so offensive that it requires the dismissal of an indictment only if it is most intolerable").

¹⁶ *Phillips v. People*, 51 V.I. 258, 273 (V.I. 2009).

¹⁷ 4 V.I.C. § 76; see also *Rivera-Moreno v. Government of the Virgin Islands*, 61 V.I. 279 (V.I. 2014) (providing a history of the Superior Court's vestment of jurisdiction over criminal matters).

¹⁸ *In re Najawicz*, 52 V.I. 311, 335 n. 17 (V.I. 2009).

CONCLUSION

For the aforesated reasons, the Court will deny Defendant's Revised Motion Seeking Immediate Dismissal of All Charges Filed Against the Defendant by This Court and Defendant's Motion to Dismiss Due to Lack of Due Process and Perjury.

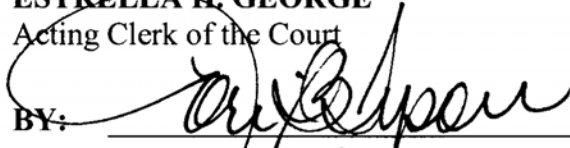
A separate Order will follow.

DATED: April 19, 2016

ATTEST:

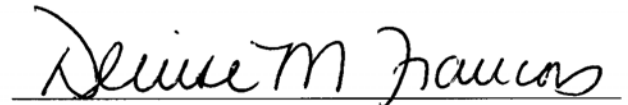
ESTRELLA H. GEORGE

Acting Clerk of the Court

BY: 

LORI BOYNES-TYSON

Court Clerk Supervisor 4/19/16



DENISE M. FRANCOIS

Judge of the Superior Court
of the Virgin Islands