

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

PEOPLE OF THE VIRGIN ISLANDS,

PLAINTIFF,

v.

KAHEEM ROBERTS,

DEFENDANT.

SX-13-CR-061

CHARGES:

**UNAUTHORIZED POSSESSION OF A
FIREARM**

14 V.I.C. § 2253(a)

POSSESSION OF AMMUNITION

14 V.I.C. § 2256 (a)

**FAILURE TO REPORT FIREARMS
OBTAINED OUTSIDE OR BROUGHT INTO
THE VIRGIN ISLANDS**

23 V.I.C. § 470(a)

**CARRYING OR USING A DANGEROUS
WEAPON**

14 V.I.C. § 2251(a)(1)

**POSSESSION OF A CONTROLLED
SUBSTANCE WITH INTENT TO
DISTRIBUTE**

19 V.I.C. § 607(a)

MEMORANDUM OPINION

THIS MATTER came before the Court on Defendant Kaheem Roberts' (hereinafter "Defendant") Motion to Dismiss Count IV of the Information. The People have filed a response. For the reasons set forth, the Court shall grant Defendant's Motion.

Defendant argues that Count IV must be dismissed because, although the Information alleges that a firearm was found in Defendant's vehicle, the People have not alleged the essential facts necessary to charge Defendant with Carrying or Using a Dangerous Weapon under Title 14, Section 2251(a)(1) of the Virgin Islands Code. The People responded by first arguing that Section 2251(a)(1) describes specific types of dangerous weapons but also includes

"or device" in their description. The People's second argument is that case law and other parts of the Virgin Islands Code describe a "firearm" as a dangerous weapon.

"[W]hen the statutory language is plain and unambiguous, no further interpretation is required." *People v. Baxter*, 49 V.I. 384, 388 (V.I. 2008) (citing *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997)). Section 2251(a)(1) reads as follows:

Whoever – has possesses, bears, transports, carries or has under his proximate control any instrument or weapon of the kind commonly known as a blackjack, billy, sandclub, metal knuckles, bludgeon, switchblade knife or gravity knife or electric weapon...

Subsection (b) of Section 2251 further defines the terms in subsection (a). Under subsection (b) "electronic weapon or device" (emphasis added) is defined as,

any device which, through application or use of electric current, including battery operated devices, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.

The plain reading of Section 2251(a)(1) in conjunction with Section 2251(b) indicates that the legislature intentionally left firearms out of the class of weapons described in Section 2251(a)(1). In *Connor v. People*, 2013 WL 3421061 at *2 (V.I. 2013), the Supreme Court read Section 2251(a)(1) as punishing the mere possession of a certain class of weapons. Because a firearm is not included in the class of weapons described in Section 2251(a)(1), the Court finds that the facts alleged by the People do not support the charge of Carrying or Using a Dangerous Weapon. Therefore it is:

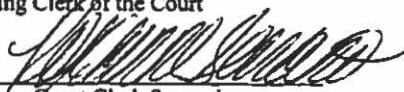
ORDERED that Defendant's Motion to Dismiss Count IV is **GRANTED**.

DONE and so **ORDERED** this 12th day of February 2014.



Harold W.L. Willocks
Administrative Judge of the Superior Court

ATTEST:
Estrella George
Acting Clerk of the Court

By: 
Court Clerk Supervisor

Dated: 2/14/14