

SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. ST-10-CR-277
	)	
HARIM ALMANDO PRINCE	)	
	)	
Defendant.	)	

MEMORANDUM OPINION

Pending before the Court is *pro se* Defendant Harim Almando Prince's December 3, 2012, Motion for a Sentence Reduction.¹ For the following reasons, Defendant's Motion is denied.

FACTUAL AND PROCEDURAL HISTORY

On May 26, 2010, Defendant was charged in an Information with two counts of third-degree assault in connection with an act of domestic violence pursuant to 14 V.I.C. § 297(2), 14 V.I.C. § 297(4), and 16 V.I.C. § 91(b)(1)(2),² and two counts of using a dangerous weapon during the commission of a crime of violence pursuant to 14 V.I.C. § 2251(a)(2). The charges arose out of a May 18, 2010, altercation where Defendant

¹ Defendant had previously filed a Motion for a Sentence Reduction on December 22, 2010, but the Motion was denied because this Court no longer held jurisdiction due to the fact Defendant had also filed a Notice of Appeal to the Supreme Court of the Virgin Islands prior to submitting the Motion for a Sentence Reduction.

² Count I charged Defendant with Assault in the Third Degree – Domestic Violence, in violation of 14 V.I.C. § 297(2) and 16 V.I.C. 91(b)(1)(2). Count III charged Defendant with Assault in the Third Degree– Domestic Violence, in violation of 14 V.I.C. § 297(4) and 16 V.I.C. 91(b)(1)(2).

stabbed his half-brother, Tyshown Belle, in his left side with a knife.³ On August 3, 2010, the jury found Defendant guilty on all counts. On September 23, 2010, the Court merged Counts III and IV with Counts I and II, sentenced Defendant to a term of imprisonment of seven (7) years and six (6) months on Count II, and sentenced Defendant to a term of imprisonment of one (1) year on Count I to run concurrently with the sentence imposed in Count Two. Defendant timely appealed his conviction to the Supreme Court of the Virgin Islands, which affirmed his conviction in a September 13, 2012, Opinion and Order.

STANDARD

Super. Ct. R. 136 permits the court to “reduce a sentence within 120 days after the sentence is imposed or within 120 days after any order or other mandate issued upon affirmance of the judgment or dismissal of the appeal.”

ANALYSIS

Defendant’s Motion for a Sentence Reduction was timely filed under Super. Ct. R. 136 because it was filed within 120 days of the Supreme Court’s September 13, 2012, dismissal of Defendant’s appeal.

However, although the Court has closely reviewed Defendant’s brief⁴ and heartfelt submissions of Defendant’s family and friends in support of Defendant’s Motion, the Court does not have the discretion to reduce Defendant’s sentence under the mandatory minimum sentencing requirements of 14 V.I.C. § 2254(a). As previously

³ Count II and IV both charged Defendant with Using a Dangerous Weapon During the Commission or Attempted Commission of a Crime of Violence, in violation of 14 V.I.C. §2251(a)(2).

⁴ The Court commends Defendant for completing an Anger Management Course on October 26, 2012.

explained in the Court's February 16, 2011, Memorandum Opinion, under 14 V.I.C. § 2254(a),

A person convicted pursuant to section 2251 . . . of having, possessing, bearing, transporting carrying or having under his proximate control a deadly or dangerous weapon as therein described during the commission or attempted commission of a crime of violence *shall* be incarcerated for a term of imprisonment of not less than *one-half of the maximum sentence* specified in that section. (emphasis added).

Further, a person who is convicted under 14 V.I.C. § 2251(a)(2) "shall not have his sentence suspended, deferred, or withheld, nor shall such person be eligible for probation, parole, or any other form of release prior to serving the mandatory minimum."⁵ Thus, because Defendant was convicted under 14 V.I.C. § 2251(a)(2)(B), using a dangerous weapon during the commission of a crime of violence, and 14 V.I.C. § 2251(a)(2)(B) carries a statutory maximum sentence of fifteen (15) years imprisonment,⁶ the Court does not have the discretion to reduce Defendant's term of imprisonment below seven (7) years and six (6) months, one-half of the maximum sentence stated in 14 V.I.C. § 2251(a)(2)(B). Accordingly, Defendant's Motion for a Sentence Reduction is denied. An Order consistent with this Opinion shall follow.

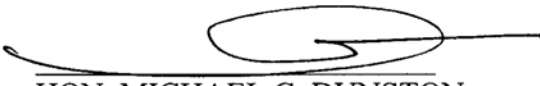
Dated: December 13, 2012

ATTEST: Venetia H. Velazquez, Esq.
Clerk of Court

by:

Lori B. Tyson

Court Clerk Supervisor



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

⁵ 14 V.I.C. § 2254 (b).

⁶ 14 V.I.C. § 2251 (a)(2)(B) states, "Whoever . . . with intent to use [a dangerous or deadly weapon] unlawfully against another . . . bares, transports, carries or has under his proximate control any such [deadly or dangerous] weapon during the commission or attempted commission of a crime of violence (as defined in section 2253(d)(1) hereof) shall be fined \$10,000 and imprisoned not more than fifteen (15) years, which penalty shall be in addition to the penalty provided for the commission of, or attempt to commit, the crime of violence."

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