

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

PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	
Plaintiff,	)	CASE NO. ST-10-CR-F151
	)	
v.	)	JURY TRIAL DEMANDED
	)	
SIDONE N. LAKE,	)	
	)	
Defendant.	)	
_____	)	

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Attorney for Plaintiff

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Attorney for Defendant

CHRISTIAN, ADAM G., Judge

MEMORANDUM OPINION
(Filed: September 9, 2011)

Pending before the Court is Defendant Sidone N. Lake's "Motion for Reduction/Reconsideration of Sentence." The People of the Virgin Islands (the "People") filed a written opposition to Defendant's motion. By Order dated July 20, 2011, the Court provided the family of the victim an opportunity to respond to the motion,¹ but the Court has not received any filing from the family. After reviewing Mr. Lake's factual proffer in support of his request and the applicable law, the Court will deny this motion.

I. Factual background.

On February 18, 2010, officers of the Virgin Islands Police Department responded to a report of a possible murder scene at Oswald Harris Court, a housing community located in St. Thomas, Virgin Islands. On arriving at the scene, the officers encountered a deceased female, later identified as Kalelia Vanterpool. Also found on the scene was Defendant. Investigation revealed that the victim was Mr. Lake's girlfriend and mother of his minor daughter. Mr. Lake advised the investigating police officers that he and Ms. Vanterpool had a heated argument. In

¹ The Court extended this opportunity to the family of the decedent in accordance with the provisions of the Victim's and Witnesses' Bill of Rights found in Title 34, Chapter 8, Virgin Islands Code.

the course of the dispute, according to Mr. Lake, the victim pointed a handgun at him and a struggle ensued. He said that, during the scuffle, the gun discharged and killed Ms. Vanterpool.

Subsequently, the autopsy report of the Virgin Islands Medical Examiner, and a reconstruction of the crime scene by an expert from the Florida Department of Law Enforcement revealed that Mr. Lake's factual recitation to the police was improbable. He was arrested and charged with one count of first degree murder,² one count of voluntary manslaughter,³ one count of possession of marijuana with intent to distribute,⁴ and two counts of unauthorized use of a firearm during a crime of violence.⁵ On January 4, 2011, Mr. Lake executed a plea agreement, dated December 30, 2010, in which he agreed to plead guilty to one count of second degree murder,⁶ as set forth in a second amended information. In exchange for his plea of guilty, the People agreed to recommend a sentence of twenty (20) years incarceration and the dismissal of the remaining charges. After examining Mr. Lake in open court on January 10, 2011, the Court accepted his plea of guilty to the single charge of second degree murder.

Mr. Lake was sentenced at a hearing held on March 10, 2011, and the Court sentenced him to thirty (30) years incarceration upon his plea of guilty to second degree murder. He now requests that his sentence be reduced. Notably, Mr. Lake does not suggest what sentence he believes is appropriate. The Court determines that his motion must be denied for the reasons set forth below.

II. Legal discussion.

A motion for reduction of sentence is governed by Superior Court Rule 136, which provides,

The court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence. The court may 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, received by the court has become final by reason of the expiration of the time limited for further appeal or review.⁷

The burden falls on the defendant to "...demonstrate some valid reason for the court to reconsider its earlier ruling and must set forth substantial facts or law to persuade the Court to

² V.I. CODE ANN. tit. 14, §§ 921, 922(a)(1).

³ 14 V.I.C. § 924(1).

⁴ 19 V.I.C. § 604(a)(1).

⁵ 14 V.I.C. § 2253(a).

⁶ 14 V.I.C. §§ 921, 922(b).

⁷ Per the Rule, a defendant must file a motion for reduction of sentence within 120 days after the imposition of sentence, if there is no appeal. Mr. Lake did not file an appeal from the Judgment, which was entered on March 23, 2011, and he filed his motion on July 15, 2011. The Court, therefore, finds that his motion was timely filed.

reverse its earlier decision.”⁸ Pertinent factors for the trial court to consider include the criminal actions of the defendant and the harm he has caused.⁹ Ultimately, the decision of whether to reduce a criminal sentence is reserved to the sound discretion of the trial court.¹⁰

Notably, Mr. Lake’s motion does not provide a citation to any, much less substantial, law in support of his position.¹¹ He does assert a factual predicate, though it is presented solely via the representations of his counsel and not in a proper evidentiary form.¹² Defendant asserts that he: 1) has expressed extreme remorse; 2) is enrolled in a G.E.D. course; 3) obtained employed in the kitchen at the Golden Grove Correctional Facility in St. Croix based on his exemplary behavior; 4) desires to pursue vocational training; and 5) wishes to be a part of his minor daughter’s life. While the Court looks favorably on Mr. Lake’s present efforts to better himself, he fails to establish that he is entitled to a reduction of the sentence previously imposed by this Court.

The record indicates that Defendant fabricated a story and relayed it to the police officers investigating the death of his girlfriend and mother of the same child for whom he now pines. His course of action strongly suggests that he was primarily concerned with distancing himself from the criminal activity, and content to allow his daughter and the family of the victim to live with his dishonest invention. If not for the subsequent investigation, it is unclear whether the additional facts about what actually occurred would ever have come to light. While his plea of guilty to second degree murder is, in itself, somewhat indicative of a subsequent acknowledgment of his culpability, the Court will not ignore his initial actions.¹³ Moreover, via his plea agreement, Mr. Lake obtained the benefit of a sentence to a term of years¹⁴ and the possibility of parole.¹⁵ Had he been convicted of the initial crimes charged, he faced incarceration for the rest of his natural life without the possibility of parole.¹⁶

⁸ *People v. Joseph*, No. ST-04-CR-F142, 2011 WL 3859699 * 1 (V.I. Super. Ct. Apr. 7, 2011) (quoting *Government v. Charles*, 47 V.I. 160, 166 (Super. Ct. 2005)).

⁹ *Id.*

¹⁰ *Id.* (citing *Government v. Santiago*, 27 V.I. 232, 244, 798 F. Supp. 274, 282 (D.V.I. 1992)).

¹¹ The Court notes that Defendant’s failure to provide legal authority in support of his motion runs afoul of the rules of procedure adopted by this Court. Pursuant to LRCi 7.1(c), “Motions, responses and replies shall be accompanied by a brief which shall contain a concise statement of reasons **and citation of authorities**.” (Emphasis added). Further, the Local Rules of Criminal Procedure provide, “In cases of general procedure not covered by these Rules, the Local Rules of Civil Procedure shall apply.” LRCr 1.2.

¹² *IFC Credit Corp. v. Aliano Bros. Gen. Contractors, Inc.*, 437 F.3d 606, 610-611 (7th Cir. 2006) (statements of attorneys in briefs and memoranda do not constitute evidence); *U.S. Foodservice, Inc. v. Donahue*, 764 F. Supp. 2d 816, 822 n. 7 (S.D. W. Va. 2011) (same).

¹³ *Government v. Charles*, 47 V.I. 160, 167 (Super. Ct. 2005) (“Although Defendant has belatedly taken responsibility for his actions, a Defendant’s exemplary behavior and remorse for past mistakes do not justify a reduction of sentence.”) (citations omitted).

¹⁴ The minimum statutory punishment for second degree murder is five (5) years incarceration, but the statute does not provide a maximum period of imprisonment. 14 V.I.C. § 923(b). Therefore, the trial court may sentence a defendant convicted of second degree murder to “...a fixed term of years appropriate to the crime and the defendant.” *Warner v. Government*, 46 V.I. 251, 257, 332 F. Supp. 2d 808, 812 (D.V.I. App. Div. 2004), *aff’d in part and dismissed in part*, 138 F. App’x 393 (3rd Cir. 2005).

¹⁵ 14 V.I.C. § 4601.

¹⁶ 14 V.I.C. § 923(a).

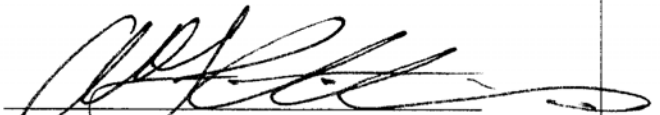
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Finally, while the Court will not list all of the impacts of his crime, I note, most importantly, that his actions resulted in the death of a young lady and mother of two daughters.¹⁷ These children will never again know the embrace of their mother. Moreover, Ms. Vanterpool's parents will never be able to see their daughter achieve the goals she set for herself. While it is important for Mr. Lake to rehabilitate himself for his eventual release, nothing presented in his motion convinces the Court that he has met the exacting burden of persuasion required to revisit his sentence. Consequently, Mr. Lake's request will be denied.

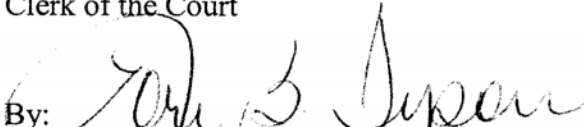
III. Conclusion.

Because Defendant has not provided substantial facts and law to support his motion for reduction/reconsideration of his sentence, the request will be denied. An appropriate Order will be issued contemporaneously with this opinion.

Dated: September 9, 2011


Hon. Adam G. Christian
Judge of the Superior Court
of the Virgin Islands

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

By: 
Lori Boynes-Tyson
Court Clerk Supervisor 9/12/11

¹⁷ The presentence report indicated that Ms. Vanterpool had a child other than the daughter born to her and Mr. Lake.

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CHRISTIAN, ADAM G., Judge

ORDER

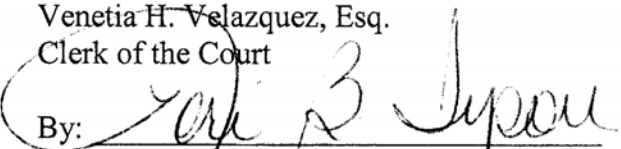
THIS MATTER is before the Court on Defendant's Motion for Reduction/Reconsideration of Sentence. For the reasons set forth in the accompanying Memorandum Opinion of even date, and the Court being satisfied in the premises, it is hereby

ORDERED that Defendant's Motion for Reduction/Reconsideration of Sentence is **DENIED**; and it is further

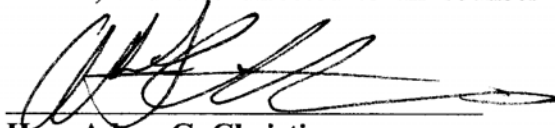
ORDERED that copies of this Order and the accompanying Memorandum Opinion of even date shall be served on Defendant Sidone N. Lake, and also directed to all counsel of record.

Dated: September 9, 2011

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

By: 

Lori Boynes-Tyson
Court Clerk Supervisor 9/12/11


Hon. Adam G. Christian
Judge of the Superior Court
of the Virgin Islands