

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

PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	
Plaintiff,	)	CRIMINAL NO. ST-11-CR-747
	)	
vs.	)	14 V.I.C. §§ 292, 299(2)
	)	
JEVERN BRYAN PHILLIP	)	
(D.O.B.: 03-11-87),	)	
	)	
Defendant.	)	
_____	)	

MEMORANDUM ORDER

BEFORE THE COURT is Samuel H. Hall, Jr.'s Motion to Appoint Co-Counsel, filed on February 3, 2012. On December 24, 2011, pursuant to 5 V.I.C. § 3503(a), the Court ordered Hall to represent Defendant Jevern Phillip in this matter. On January 10, 2012, the People charged Phillip with one count of simple assault and battery, in violation of 14 V.I.C. §§ 292, 299(2). Hall now moves the Court to appoint co-counsel for the matter, specifically Attorney Leslie Payton.

In support of his motion, Hall first states that "[his] practice of Law is primarily Transactional Law." The Court does not find this to be a convincing or sufficient reason to justify the appointment of co-counsel. The American Bar Association's Model Rules of Professional Conduct (hereinafter "ABA Model Rules") state that "[a] lawyer need not have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. . . . A lawyer can provide adequate representation in a wholly novel field through necessary study."¹ The ABA Model Rules further recognize that "[i]n many instances, the required proficiency is that of a general practitioner."² The required proficiency in this matter is that of a general practitioner. Any attorney licensed to practice law in the Virgin Islands is competent to defend against a criminal prosecution for simple assault and battery, and the Court is confident in Hall's ability to adequately prepare for and handle this criminal matter.³

¹ MODEL RULES OF PROF'L CONDUCT R. 1.1, cmt. [2] (2009).

² R. 1.1, cmt. [1].

³ The Court takes judicial notice of the fact that Hall was appointed as Special Prosecutor for the People of the Virgin Islands in the *In re: Kendall* matter and successfully obtained a judgment of conviction. See *In re: The Honorable Leon A. Kendall*, S. Ct. Misc. No 2009-0025.

Hall next states that "[t]his is an extremely serious allegation, which exposes the Defendant to substantial incarceration." The Court disagrees with this statement and notes that simple assault and battery, carrying a maximum term of incarceration of six (6) months,⁴ is a relatively minor charge compared to those brought against other defendants in which private attorneys are often appointed to defend against. The Court does not find this to be a case so complex that more than one attorney is required. Therefore, the Court will not appoint co-counsel.

"[M]embership in the Bar is a privilege burdened with conditions."⁵ One of those conditions is that "[e]very lawyer has a professional responsibility to provide legal services to those unable to pay."⁶ While the Court will not appoint co-counsel, Hall, as primary counsel for the defendant, however, remains free to retain co-counsel. Co-counsel's compensation will be at Hall's expense, as he alone may request authorization of payment from the Court for time he personally, or a member of his firm personally, spends on the case. The Court will not authorize the payment of public funds for any work of co-counsel.

Accordingly, it is hereby

ORDERED that Hall's Motion to Appoint Co-Counsel is **DENIED**; and it is further

ORDERED that a copy of this Order shall be directed to Quincy G. McRae, Esq., Assistant Attorney General and Samuel H. Hall, Jr., Esq.

DATED: February 13, 2012



ALAN D. SMITH
Magistrate of the Superior Court
of the Virgin Islands

ATTEST:
VENETIA H. VELAZQUEZ, ESQ.
Clerk of the Court

BY: C. Salem
COLLEEN SALEM
Court Clerk Supervisor 2/13/2012

⁴ V.I. CODE ANN. tit. 14, § 299 (1996).

⁵ *Gov't of the Virgin Islands in re R.F.*, 47 V.I. 178, 185 (Super. Ct. 2005) (citing *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1065).

⁶ MODEL RULES OF PROF'L CONDUCT R. 6.1.