

SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	
Plaintiff,	)	
	)	
vs,	)	CASE NO. ST-12-CR-320
	)	
JIM POWELL,	)	
	)	
Defendant.	)	

MEMORANDUM OPINION

Pending before the Court is the People's motion for a pre-trial order filed on December 5, 2012. In the motion, the People request that the Court indicate whether it intends to give a fourth element of proof to the jury in its jury instructions regarding the charges Defendant faces under 14 V.I.C. § 924. The People also request that the Court issue an order defining the elements of the crime of voluntary manslaughter. In addition, the People request that this Court certify to the V.I. Supreme Court this question of law regarding the proper elements of the crime of voluntary manslaughter.

In essence, the People request that this Court issue an advisory opinion upon which they can base an interlocutory appeal. However, this Court may not render advisory opinions.¹

Moreover, interlocutory orders in criminal cases are appealable only in certain situations. Under 4 V.I.C. § 33(d), the V.I. Supreme Court has jurisdiction over appealable interlocutory orders in criminal matters involving a decision, judgment, or order of the Superior Court that (1) "dismiss[es] an indictment or information or

¹ *In Matter of Estate of Paralicci*, No. 29/1999, 2000 WL 689331, at *1 (Terr. Ct. 2000).

otherwise terminate[s] a prosecution in favor of the defendant, (2) “suppress[es] or exclude[s] evidence or require[s] the return of seized property in a criminal proceeding,” (3) “grant[s] the release of a person charged with or convicted of an offense, or den[ies] a motion for revocation of, or modification of the conditions of, a decision or order granting release,” and (4) “detain[s] a person charged with or convicted of an offense, or den[ies] a motion for revocation of, or modification of the conditions of, a decision or order of detention.” The People’s motion does not request relief under any of the provisions listed in 4 V.I.C. § 33(d).

Moreover, certification of questions of law is governed by Rule 38 of the Virgin Islands Supreme Court Rules, which provides that the Supreme Court “may answer questions of law certified to it by a court of the United States or the court of last resort of a state, the District of Columbia, or a territory of the United States.” Considering that this Court is not a court described in Rule 38, this rule is inapplicable.

Accordingly, the People’s motion will be denied. An Order consistent with this Opinion shall follow.

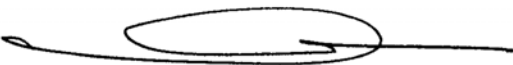
Dated: January 9, 2013

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

by: _____

Lori B. Tyson

Court Clerk Supervisor 1/10/2013


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

SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS,

Plaintiff,

vs,

JIM POWELL,

Defendant.

)
)
)
) **CASE NO. ST-12-CR-320**
)
)
)
)
)
)

ORDER

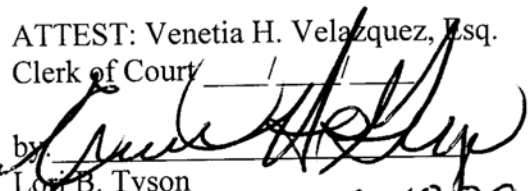
Upon consideration of the premises, it is hereby

ORDERED that the People's motion for a pre-trial order is DENIED; and it is

ORDERED that a copy of this Order shall be directed to counsel of record.

Dated: January 8, 2013

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

by: 
Lori B. Tyson
Court Clerk Supervisor 1/10/2013


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