

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

PEOPLE OF THE VIRGIN ISLANDS,	)	
	)	
Plaintiff,	)	CRIMINAL SX-11-CR-557
vs.	)	AGGRAVATED RAPE 1 ST /
	)	DOMESTIC VIOLENCE;
	)	UNLAWFUL SEXUAL CONTACT 1 ST /
RODOLFO JACOBS, II,	)	DOMESTIC VIOLENCE;
	)	CHILD ABUSE
Defendant.	)	

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court in consideration of the Third-Party Custodian's letter to the Court dated March 30, 2012. While Mrs. Thomas-Jacobs' letter is not properly before the Court, *i.e.*, not attached to a motion by Defendant's lawyer, the Court deems the issue raised in her letter important to address. For the reasons set forth below, the Court will uphold its previous Order for pre-trial release and electronic monitoring during the pendency of this matter.

Defendant Rodolfo Jacobs, II was granted pre-trial release with certain conditions, by Order dated August 5, 2011, including the requirement for a third-party custodian along with "24-hour house arrest with the use of an electronic monitor." On the same day, Laurie Y. Thomas-Jacobs, and Rodolfo Jacobs (Defendant's parents) both signed "CONSENT OF THIRD PARTY CUSTODIAN" agreements to act as custodian for [their] son and freely accepted the obligations thereof. In her March 30, 2012, letter to the Court, Third-Party Custodian Laurie Thomas-Jacobs requests the removal of the electronic monitor - which costs seventy (70.00) dollars per week or two hundred eighty (280.00) dollars per month - citing a financial burden.

ANALYSIS

It is generally acknowledged that a Defendant has the right to bail, with few exceptions, under the applicable provisions of the Revised Organic and the Bail Reform Acts.¹ Superior Court Rule 141 governs the right to bail before conviction in the Virgin Islands. More specifically, Rule 141(d) states that the primary duty of a third party custodian is:

“to ensure compliance with the terms of the release and the appearance of the defendant... [and that] [e]ach custodian must fully execute under oath the Third Party Custodian Consent Form before a defendant may be released.”

Plainly put, Mr. and Mrs. Jacobs freely agreed to act as third- party custodians for their son and in so doing voluntarily contracted to act as guarantors that the Defendant would appear when called upon by the Court, Probation and Parole offices. The Third Party Consent Form is a modest document, asking for little more than basic supervision and accountability pledges. A third party custodian is always free to revoke consent, if it presents challenges which interfere with their ability to conform.

The Court is mindful of the sense of responsibility, community and family that allows one to stand in as a third party custodian on behalf of another person. However, it must balance that sensitivity with the duty of the Court to protect the safety of the community and have reasonable assurances that the Defendant will conform to the terms imposed upon him when released.

Moreover, in regard to the main charge against the Defendant, Aggravated Rape in the First Degree of a Minor, the restriction of Defendant’s freedom of movement is a prudent

¹ The only crime which permits detention in the U.S. Virgin Islands without bail, pending trial is First Degree Murder. See *Tobal v. People of the Virgin Islands*, 51 V.I. 147, 161 (V.I. 2009)

safeguard protecting the victim and the community.

Therefore, the premises considered, this Court hereby

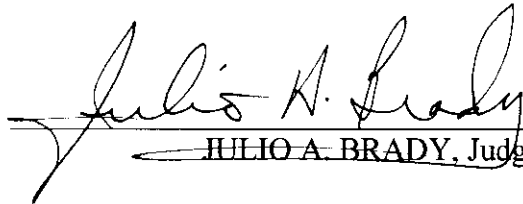
FINDS that the third party custodian does not have an articulable interest on behalf of the Defendant in this matter, it is hereby

ORDERED that the Defendant shall remain on house arrest with the use of electronic monitoring.

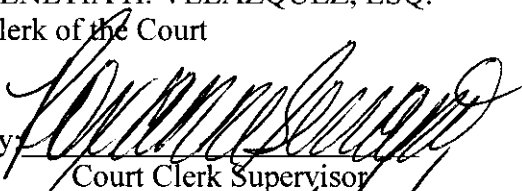
ORDERED that all other terms of Pretrial Release shall remain in full force and effect during the pendency of this matter. Finally, it is

ORDERED that a copy of this Order be served on the parties and the Office of Probation.

Dated: June 7, 2012.


JULIO A. BRADY, Judge

A T T E S T:
VENETIA H. VELÁZQUEZ, ESQ.
Clerk of the Court

By: 

Court Clerk Supervisor
6/7/12