

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

NATIFAH WILLIAMS,

Petitioner,

v.

**GOVERNMENT OF THE VIRGIN ISLANDS,
GOVERNOR KENNETH E. MAPP,
OFFICE OF THE ATTORNEY GENERAL,
ATTORNEY GENERAL CLAUDE E. WALKER,
VIRGIN ISLANDS BUREAU OF CORRECTIONS
PERSONNEL, DIRECTOR RICK MULLGRAV,
ACTING ASSISTANT WARDEN SHERN MORRIS,**

Respondents.

SX-14-CV-387

**PETITION FOR A WRIT OF
HABEAS CORPUS**

MEMORANDUM OPINION

THIS MATTER is before the Court on Petitioner Natifah Williams' (hereinafter "Williams" or "Petitioner") Motion for Discovery (hereinafter "Motion") filed on September 26, 2014. For the following reasons, Williams' Motion will be granted.

BACKGROUND

On July 8, 2011, Petitioner Natifah Williams along with her sister and co-defendant Adelina Williams were arrested following a stabbing incident that resulted in the death of Tamirah Bruno and injuries to several minor girls. In Criminal Number SX-11-CR-803, Williams was charged, in a fifteen Count Information, with First Degree Murder/Principals, three counts of Attempted Murder in the First Degree/ Principals, four counts of Assault in the First Degree/ Principals, five counts of Assault in the Third Degree/ Principals, Possession of a Dangerous Weapon During the Commission of a Crime of Violence/ Principals, and Reckless Endangerment in the First Degree/ Principals.

On August 22, 2012, Williams pled guilty to

Count One, to wit: Voluntary Manslaughter and sentenced to ten (10) years incarceration with credit granted for time served. Williams also pled guilty to

Counts Ten, Eleven and Twelve: Assault in the Third degree and was sentenced to two (2) years on each count to run consecutively for a total of six (6) years. The sentencing for the lesser included offense to Count One and the sentencing in Counts Ten, Eleven and Twelve run consecutively to each other for a maximum penalty of sixteen (16) years. For her guilty plea to Count Fourteen: Reckless Endangerment, Williams was sentenced to five (5) years incarceration with all suspended and instead placed on five years supervised probation. The remaining Counts were dismissed with prejudice.

On September 26, 2014, Williams filed a Petition for a Writ of Habeas Corpus arguing that her plea was involuntary and ineffective assistance of counsel. On November 7, 2017, the Court granted Williams' Petition for Writ of Habeas Corpus. Williams moves for discovery of hearing transcripts, affidavits, police and witness statements, police reports, forensic records and plea records.

STANDARD OF REVIEW¹

Although the Virgin Islands Code and the Revised Organic Act, codified at 48 U.S.C. § 1561 *et seq.*, govern habeas corpus cases, there is no provision for discovery.² The federal habeas corpus statute is not applicable to the Virgin Islands.³ Moreover, the discovery provisions in the Virgin Islands Rules of Civil Procedure are not applicable to habeas proceedings. Generally, "[w]hen procedure is not prescribed by [the] Virgin Islands Rules of Civil Procedure, precedent from the Supreme Court of the Virgin Islands, or the Virgin Islands Code, a judge may regulate practice in any manner consistent with the law of the Virgin Islands."⁴ Therefore, to determine the proper procedure for discovery, the Court will apply the standards articulated by the Supreme Court of California interpreting the California statute which the Virgin Islands habeas statute was modeled.⁵

¹ See *Gillette v. Herbert*, 2017 V.I. LEXIS 27, *3-5. Beginning December 1, 2017, Rule 3 of the Virgin Islands Habeas Corpus Rules will govern discovery in habeas corpus proceedings.

² *Id.* at 296-97 (citations omitted). *Cf. Mitchell v. Wilson*, 62 V.I. 326, 330 (Super. Ct. 2015).

³ See *Rodriguez v. Bureau of Corr.*, 58 V.I. 367, 387 (2013).

⁴ V.I. R. Civ. P. 1-3(a).

⁵ See *Rivera-Moreno*, 61 V.I. at 303; see also *Mosby v. Mullgrav*, 2016 V.I. Supreme LEXIS 28, at *7 (V.I. July 12, 2016) (the Supreme Court applied a decision of the Supreme Court of California interpreting the California statute from which the Virgin Islands habeas corpus statute had been borrowed).

Habeas corpus cases are completely separate from the underlying criminal case.⁶ “The issue on habeas corpus is not defendant’s guilt or innocence or the appropriate punishment but whether the defendant (designated the petitioner on habeas corpus) can establish some basis for overturning the underlying judgment.”⁷ As such, “there is no federal right, constitutional or otherwise, to discovery in a habeas corpus proceeding.”⁸ Courts have sole discretion to authorize discovery in habeas corpus cases.⁹ The trial court has the power to order discovery when requested by a party, or in the absence of a discovery request by a party.¹⁰

The discovery rules governing state habeas proceedings are succinctly summarized as follows:¹¹

Unless discovery is necessary to protect a postconviction applicant's substantial rights, the court is not required to order discovery. The standard for allowing discovery is sometimes stated in terms of whether there is "good reason" or "good cause" to permit discovery. Where discovery is permitted, a trial court may place limitations on its sources and scope. Where a discovery request amounts to a fishing expedition undertaken in an attempt to create some doubt as to the petitioner's guilt, the request is properly denied. Likewise, prisoners cannot seek discovery at the postconviction stage if the requested evidence could have been obtained at trial.

As mentioned *supra*, habeas corpus cases do not provide a petitioner with unfettered access to everything in the prosecutor’s possession.¹² However, even absent a request, the

⁶ See *In re Scott*, 29 Cal. 4th 783, 815, 129 Cal. Rptr. 2d 605, 625-26 (2003) (a habeas corpus proceeding like this one is civil in nature It is not itself a criminal case, and it cannot result in added punishment for the petitioner. Rather, it is an independent action the defendant in the earlier criminal case institutes to challenge the results of that case).

⁷ See *People v. Superior Court (Pearson)*, 48 Cal. 4th 564, 572 (2010).

⁸ See *In re Lawley*, 42 Cal. 4th 1231, 1249 (2008) (citations omitted).

⁹ *Id.*

¹⁰ See *Bd. of Prison Terms*, 130 Cal. App. 4th 1212, 1242 (2005).

¹¹ Laurie L. Levenson, *Symposium Article: Searching For Injustice: The Challenge Of Postconviction Discovery, Investigation, And Litigation*, 87 S. CAL. L. REV. 545, 548 (2014).

¹² See *Kennedy v. Superior Court*, 145 Cal. App. 4th 359, 366, 51 Cal. Rptr. 3d 637, 646 (2006).

prosecution has a well-established constitutional duty to disclose *Brady* material—
exculpatory and impeachment evidence.¹³

DISCUSSION

Williams requests “pertinent and necessary records consisting of ... all hearing transcripts (specifically from July 9, 2011 to August 22, 2012 of the Superior Court in respect to and in relation to Criminal Case number SX-11-CR-803; affidavits, police and witness statements; police reports, forensic records, plea records, et. al.”

In conformity with *Rivera-Moreno* and *Mosby*, when interpreting the Virgin Islands’ habeas corpus statute, this court will defer to the Supreme Court of California’s interpretation of the statute governing discovery in habeas corpus proceedings. In California, courts order discovery in noncapital habeas cases on a case-by-case basis.¹⁴

“Habeas corpus is an extraordinary, limited remedy against a presumptively fair and valid final judgment. It is not a device for investigating possible claims, but a means for vindicating actual claims.”¹⁵ “There is no post conviction right to “fish” through official files for belated grounds of attack on the judgment, or to confirm mere speculation or hope that a basis for collateral relief may exist.”¹⁶ “Petitioner must make concrete allegations, supported by specific facts, as grounds for habeas-corpus-based discovery.”¹⁷ “The discovery in a habeas corpus proceeding must be relevant to the issues upon which the

¹³ See *Gonzalez*, 51 Cal. 3d at 1260-61 (Noting that [even] after a conviction the prosecutor . . . is bound by the ethics of his office to inform the appropriate authority of . . . information that casts doubt upon the correctness of the conviction.); see also *Brady v. Maryland* 373 U.S. 83, 87 (1963).

¹⁴ Laurie L. Levenson, *Symposium Article: Searching For Injustice: The Challenge Of Postconviction Discovery, Investigation, And Litigation*, 87 S. CAL. L. REV. 545, 545 (2014). See *In re Scott*, 61 P.3d 402, 417-18 (Cal. 2003).

It is important to recognize that in California, different standards apply to discovery requests from habeas corpus petitioners sentenced to life imprisonment or capital punishment than noncapital cases . See Cal. Penal Code §§ 1054.9 and 1484.

¹⁵ See *People v. Gonzalez*, 51 Cal. 3d 1179, 1260 (1990).

¹⁶ *Id.* at 1259-60.

¹⁷ *Id.*

petition states a prima facie case for relief.”¹⁸ “Discovery on habeas corpus is necessarily directed at issues raised or potentially raised on habeas corpus, which may or may not relate to any of the evidence presented or not presented in the underlying criminal trial.”¹⁹

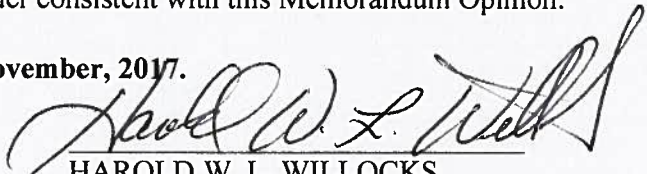
In the case at bar, Williams challenges the voluntariness of her plea agreement and the effectiveness of her counsel. The Court determined that Williams’ habeas corpus petition stated a prima facie case for relief for ineffective assistance of counsel and the due process challenge to the voluntariness of her plea. Ergo, Williams’ request for “all hearing transcripts (specifically from July 9, 2011 to August 22, 2012 of the Superior Court in respect to and in relation to Criminal Case number SX-11-CR-803 and plea records” are relevant to the issues upon which this Court granted habeas relief. The Court finds that there is good reason to allow discovery and that the discovery requests are relevant to the issues.

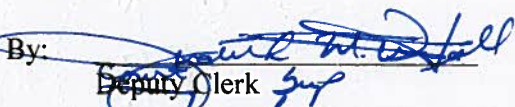
CONCLUSION

In light of the foregoing, Williams’ motion for discovery shall be granted. In order to have a full and fair determination of the matter, Williams’ request for “all hearing transcripts (specifically from July 9, 2011 to August 22, 2012 of the Superior Court in respect to and in relation to Criminal Case number SX-11-CR-803 and plea records” shall be granted. Even absent a request or court order, the prosecution has a continuing obligation to disclose *Brady* material. The Court will enter an Order consistent with this Memorandum Opinion.

DATED this 8th day of November, 2017.

ATTEST:
Estrella George
Clerk of the Court


HAROLD W. L. WILLOCKS
Administrative Judge of the Superior Court

By: 

Deputy Clerk

Dated: 11/15/17

¹⁸ *Id.* at 1243.

¹⁹ See *People v. Superior Court (Pearson)*, 48 Cal. 4th 564, 572 (2010).