

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

THE PEOPLE OF THE VIRGIN ISLANDS **Plaintiff**)
)
 Vs.)
)
 CHAYANNE TRINIDAD **Defendant**)

CASE NO. SX-10-CR-0000341

ACTION FOR: 14 V.I.C. 551(1)

**NOTICE OF ENTRY OF
MEMORANDUM
OPINION AND ORDER**

TO: MAGISTRATES OF THE SUPERIOR COURT
LAW LIBRARY
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JUDGES OF THE SUPERIOR COURT
INFORMATION TECHNOLOGY

Please take notice that on September 21, 2010 a(n) MEMORANDUM
OPINION AND ORDER dated August 19, 2010 was entered by the Clerk in the
above-entitled matter.

Dated: September 21, 2010

Venetia H. Velazquez, Esq.
CLERK OF THE SUPERIOR COURT



CHERYL CLARKE
COURT CLERK II

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

PEOPLE OF THE VIRGIN ISLANDS,

PLAINTIFF,

v.

CHAYANNE TRINIDAD,

DEFENDANT.

SX-10-CR-341

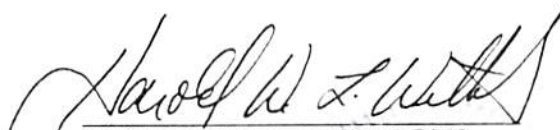
ORDER

THIS MATTER is before the Court on the People's Motion for Pretrial Detention of Defendant Chayanne Trinidad (hereafter "Defendant" or "Trinidad"). A pre-trial detention hearing was held on the matter on June 23, 2010. For the reasons elucidated in the Court's Memorandum Opinion of even date, it is hereby

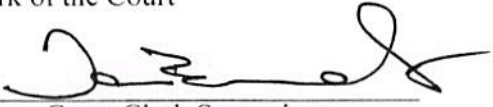
ORDERED that the People's Motion for Pretrial Detention of Defendant is **GRANTED**; and it is further

ORDERED that Defendant shall be detained pending trial or changed circumstances in this matter.

DONE and so **ORDERED** this 19th day of August 2010.


HAROLD W. L. WILLOCKS
Judge of the Superior Court

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

By: 

Court Clerk Supervisor

Chief Deputy Clerk

Dated: 8/24/10

CERTIFIED TO BE A TRUE COPY

This 21 day of SEP 20 10

VENETIA H. VELAZQUEZ, ESQ.

CLERK OF THE COURT

By  Court Clerk

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

PEOPLE OF THE VIRGIN ISLANDS,

PLAINTIFF,

v.

CHAYANNE TRINIDAD,

DEFENDANT.

ST-10-CR-341

MEMORANDUM OPINION

(Dated August 19, 2010)

THIS MATTER is before the Court on the People's Motion for Pretrial Detention of Defendant Chayanne Trinidad (hereafter "Defendant" or "Trinidad"). For the reasons that follow, this Court will grant the People's Motion for Pretrial Detention.

I. FACTUAL AND PROCEDURAL BACKGROUND

Investigation by the Virgin Islands Police Department revealed that on March 20, 2010, in the vicinity of Estate Castle Coakley, Christiansted, in the Judicial District of St. Croix, United States Virgin Islands the deceased Misael Morales (hereafter "Morales") was found murdered by a single gun shot wound to the back of the head. Detective Cureene Smith, employed as an investigator with the Criminal Investigation Bureau, St. Croix District, was assigned to the homicide of Morales. Detective Smith asserts that the evidence supports that Trinidad (hereafter "Trinidad" or "Co-Defendant") and Jomar "Chippa" Encarnacion, co-defendant in this case were hanging out together with Morales on the night of March 19, 2010. Morales was later found and reported murdered the following day. Based upon evidence uncovered during Detective Smith's investigation, the People charged Trinidad with murder in the first degree as a principal. More specifically, the information alleges that Trinidad, while aided and abetted by [Encarnacion], unlawfully and with willful, deliberate and premeditated design, kill [Morales], a human being.

by shooting him with a firearm in the back of the head in violation of 14 V.I.C. § 922(a)(1) & 11(a). *Information People v. Chayanne Trinidad and Jomar "Chippa" Encarnacion at 4.* Immediately following Trinidad's arrest and advise of rights, the People filed a motion to detain him without bail pending trial pursuant to Section 3 of the Revised Organic Act of 1954 (ROA) as amended and codified in 48 U.S.C. § 1561. In support thereof, the People also assert that based upon the instant charges and the facts of the case Trinidad poses a great danger to the community, and is a flight risk. In opposition, Trinidad argues that the People have clearly failed to meet the clear and convincing standard established in *Browne v. People*, 50 V.I. 241 (V.I.2008), *cert. denied*, No. 08-4186 (3d Cir.Oct.29, 2008).

II. ANALYSIS

"Section 3 of the [ROA] governs the issue of pretrial detention for first degree murder defendants in local Virgin Islands courts, and title 5, section 3504a of the [Virgin Islands Code] is inapplicable to the extent that it purports to grant pretrial bail for defendants charged with first degree murder in the Superior Court under Virgin Islands law where the *proof is evident or the presumption great.*" *Browne v. People*, 50 V.I. 241 (V.I.2008), *cert. denied*, No. 08-4186 (3d Cir.Oct.29, 2008). "Section 3 of the ROA mandates that Virgin Islands judges grant bail in sufficient sureties to all defendants other than those charged with first degree murder where the proof is evident or presumption great." *Tobal v. People*, Crim No. 2009-070, 2009 WL 357975, at *7 (V.I. Feb. 11, 2009).¹

¹ Section 3 of the Revised Organic Act ["ROA"], known as the "Bill of Rights," provides *inter alia*, that "[a]ll persons shall be bailable by sufficient sureties in the case of criminal offenses, except for first degree murder or any capital offense when the proof is evident or the presumption is great." The Revised Organic Act of 1984, § 3, 48 U.S.C. § 1561, *reprinted in* V.I. CODE ANN., tit. 1). By contrast, 5 V.I.C. § 3504a, titled "Detention prior to trial," purports to provide for the pre-trial detention of "person[s] charged with [the dangerous crimes of] murder in the first degree, rape in the first degree, arson in the first degree, robbery in the first degree, burglary in the first degree, kidnapping for ransom, or drug trafficking." 5 V.I.C. § 3504a(a)(1).

In *Browne*, the Supreme Court “established both the burden of proof and the standard of proof required to detain without bail a defendant charged with first degree murder.” *Jalani Williams v. People*, Crim No. 2009-0111, 2010 WL 1565533, at *4 (V.I. April 19, 2010). “The burden of proof rests on the People to prove *clear and convincing evidence* that the defendant committed the crime of first degree murder.” See *Jalani Williams* at *4 (citing from *Browne*, 50 V.I. at 260-63). However, “the purpose of the bail hearing is not to determine the ultimate question to be resolved at trial.” *Jalani Williams* at *4 (citing from *Browne* at 262). Thus, in determining whether the evidence adduced at the pre-trial detention hearing is clear and convincing, this Court is mandated to “focus on the strength of the People’s evidence rather than the defendant’s ultimate guilt or innocence, see *Browne*, 50 V.I. at 262-63, and may not resolve direct conflicts as to inculpatory and exculpatory facts, see *Browne*, 50 V.I. at 266.” *Id.*

Moreover, the *Jalani Williams*’ Court expounds that 5 V.I.C. §§ 931-935, which govern the issue of the admissibility of hearsay evidence in local Virgin Islands courts, do not bar the admission of hearsay at pre-trial detention hearings.” See *Jalani Williams* at *6. However, it instructs that “when the People elect to present *exclusively* hearsay evidence at a pre-trial detention hearing, [this Court] when determining whether the evidence is clear and convincing, must undertake by whatever means are appropriate under the circumstances to ascertain the reliability of the underlying hearsay statement when their accuracy is in question.” *Jalani Williams* at *10.

At the hearing, the Government presented evidence through the testimony of Detective Cureene Smith. Detective Smith has been a police officer with the Virgin Islands Police Department for approximately eight (8) years and a detective assigned to the major crime unit for approximately three (3) years. On March 20, 2010, Detective Smith was dispatched on a call at about 7:00 a.m. to investigate a possible homicide in the vicinity of Plot 180 Old Coakley, St.

Croix. She explained that upon her arrival to the scene she observed that a male individual laying on the ground with a single gunshot wound to his forehead later determined to be Misael Morales, Junior [Morales] was found to be dead. Her investigation further revealed—based upon an autopsy performed by Dr. Francisco Landrum, the forensic pathologist—that the cause of Morales' death was a single gunshot wound to his head and that the manner of death was homicide.

On March 20, 2010, at the crime scene, Detective Smith found on Morales' person a Cost U Less ID card and a check stub for approximately \$375.03. A gold pendant—identified by Morales' mother as being a pendant that Morales usually wore on a long gold chain around his neck—was also found by Detective Smith that day in close proximity to his dead body. Statements obtained by Detective Smith from a Cost U Less manager further revealed that Morales had gotten paid and had cashed his check on March 19th (the day before he was found murdered). Detective Smith testified that Morales' pockets were turned inside out, no cash was found on his person and that the gold chain that Morales usually wore around his neck with the gold pendant found at the scene was missing. Smith also testified that Witness 1 (hereafter "W-1"), Morales' girlfriend, upon questioning stated that after Morales had finished work on the 19th he met her at Sunny Isles and gave her \$40.00 and told her that he was going to pay a guy by the name of Chayanne a hundred dollars for the balance of a cell phone that Chayanne had sold to him.

After talking to W-1, police discovered that the phone Chayanne sold to Morales was similar to an LG or something of that nature and it was black and gray or black and silver in nature – in color. The police were able to acquire a cell phone that matched W-1's description of the cell phone. Detective Smith had gotten a phone call from a law enforcement officer stating that Chayanne was trying to sell his son a cell phone. Days later, the law enforcement officer

called back and stated that his son indeed bought a cell phone from Trinidad. The law enforcement officer's son, Witness 2 (hereafter "W-2") met with Detective Smith and stated to her that he had purchased a cell phone from Trinidad. W-2 brought the cell phone to the police and the Forensic Department collected and examined the cell phone. The cell phone was also shown to W-1 who confirmed that the cell phone was similar to the phone that deceased had. The police checked the AT&T records for the phone and found that the cell phone that Morales had was in fact the same phone that Chayanne sold to W-2. Detective Smith reported that the record showed that numbers that Morales made and calls that were made to Morales. The records also indicated that approximately nine or ten days after Morales was found dead, the IME number was changed—meaning that somebody took the chip out of Morales' phone and put it in another phone. Detective Smith's investigation of the residents in the area of the murder the following day produced statements that they had heard one single gunshot around nine o'clock on March 19, 2010 on the night of Morales' murder.

Detective Smith testified that when the EMS arrived at the scene on March 20, 2010 they checked for vital signs and found that Morales had been dead for several hours. Detective Smith further testified that on March 24th the forensic pathologist, Dr. Landron Francisco did an autopsy and determined that Morales died from a single gunshot wound to the back of the head and that the manner of the death was homicide. Based upon questioning of family members of Morales, Detective Smith also discovered that Morales had been at the El Sol Bar sitting and drinking with an unknown male. They also stated that the bar had surveillance cameras. Detective Smith followed-up on the information, and with a subpoena was able to get the Forensic's Department to collect the surveillance tape from El Sol Bar. Investigation revealed that Trinidad was identified as the light skinned male on the tape drinking with Morales and

Detective Smith further identified that Defendant Trinidad who was in the courtroom was the same person in the tape.

Detective Smith also interviewed Trinidad on separate occasions. Trinidad stated that Morales had come to his residence and paid him the money for the cell phone. They were there for a little while and then went to the El Sol Bar where they had several drinks. Sometime after 8:00 p.m. or 9:00 p.m., Morales told Trinidad to come with him to Castle Coakley. Trinidad stated that he declined to go with Morales and so when Morales left El Sol Bar that he [Trinidad] went to the Sion Farm area. Detective Smith then had a second interview with Trinidad. This follow-up interview was a result of the cell phone records indicating that the cell phone that Trinidad had sold to W-2 was identified as having the same number as the cell phone that Trinidad had previously sold to Morales prior to the murder. During the second interview Trinidad stated that while at El Sol Bar Encarnacion had picked Morales and him up. Trinidad went on to state that after they drove around for awhile Encarnacion drove them to Sion Farm where he resides and parked his uncle's truck back up. According to Trinidad, after Encarnacion dropped the pickup truck to Sion Farm they went walking through the shortcut through the Castle Coakley area where Morales was found dead the following day. Trinidad stated that he saw Encarnacion pull out a .38 which he said had a brown handle. Trinidad also stated that the gun had come from Encarnacion's uncle's house and it was in a drawer.

Detective Smith also interviewed Encarnacion. Based upon this interview taken on June 18, 2010 Encarnacion stated that Trinidad had called him and told him that Trinidad shot Morales. Encarnacion also stated that he had a face-to-face conversation with defendant Trinidad at his residence. During that conversation Trinidad confessed to Encarnacion that when Morales did not pay him [Trinidad] all of his money he [Trinidad] shot him. Detective Smith testified that on the day of the interview [June 18th] Encarnacion had repeated several times that

Trinidad told him that he [Trinidad] had shot Morales. Detective Smith testified that Encarnacion was able to describe in detail what happened during the shooting.

Accordingly, and based upon the testimony and evidence presented at the pre-trial detention hearing, the Court finds that the People have established by clear and convincing evidence the following facts relevant to proving that Trinidad committed the crime of murder in the first degree:

1. On March 20, 2010, in the vicinity of Plot 180 Old Coakley, St. Croix, during the investigation of the crime scene for Morales' murder Detective Smith found on Morales' person a Cost U Less ID card and a check stub for approximately \$375.03.
2. A gold pendant—identified by Morales' mother as being a pendant that Morales usually wore on a long gold chain around his neck—was also found by Detective Smith that day in close proximity to his dead body.
3. Detective Smith testified that investigation of the crime scene on March 20, 2010, revealed that Morales' pockets were turned inside out, no cash was found on his person and that the gold chain that Morales usually wore around his neck with the gold pendant found at the scene was missing.
4. Detective Smith's follow-up questioning of a Cost U Less manager further revealed that Morales had gotten paid and had cashed his check on March 19th (the day before he was found murdered).
5. On March 19, 2010, Morales went to Trinidad's residence to pay off the balance on a cell phone Trinidad had sold to him [Morales].

6. W-1, Morales' girlfriend stated to Detective Smith that Morales had given her \$40 on March 19, 2010 before going to Trinidad's residence to pay the balance on the cell phone Trinidad had sold to him.
7. Trinidad stated to Detective Smith that Trinidad and Morales went to the El Sol Bar after Morales paid Trinidad for the cell phone.
8. Family members stated to Detective Smith that they saw Morales at El Sol Bar drinking with another male.
9. Surveillance cameras at El Sol Bar recorded on March 19, 2010 show that Morales was at the El Sol Bar drinking with Trinidad.
10. Trinidad stated to Detective Smith that Trinidad and Morales were picked up by Encarnacion at the El Sol Bar in Encarnacion's uncle's pickup truck.
11. Trinidad stated to Detective Smith that during the ride in the pickup truck Encarnacion said to Trinidad that he intended to kill someone.
12. Trinidad stated to Detective Smith that he, Encarnacion, and Morales then all got off the pickup truck at Encarnacion's residence and went on foot toward Castle Coakley where they took a short cut through the bush.
13. During the investigation, the police found a .38 caliber firearm in Encarnacion's uncle's house in the dresser drawer based upon Trinidad's statements to the police.
14. Encarnacion stated to Detective Smith that Trinidad had requested bullets for a .38 caliber firearm and that Encarnacion had given them to Trinidad.
15. Trinidad made statement to Detective Smith that upon his [Trinidad's] request that Encarnacion had given Trinidad bullets for a .38 caliber firearm.

16. Encarnacion told Detective Smith repeatedly on the day of interrogation that Trinidad had confessed to him [Encarnacion] the murder of Morales and was able to describe in detail to Detective Smith how Trinidad shot Morales and how he fell to the ground.
17. Detective Smith's investigation of the residents in the area of the murder the following day revealed that the residents had heard one single gunshot around 9:00 o'clock p.m. on March 19, 2010, the night of Morales' murder.
18. Autopsy reports indicate that the cause of Morales' death was a single gunshot wound to his head and that the manner of death was homicide.
19. AT&T cell phone records show that Morales' cell phone that had been sold to Morales by Trinidad was identified as having the same number as the cell phone sold by Trinidad to W-2 after Morales' murder.
20. The AT&T records also indicated that approximately nine or ten days after Morales was found dead, the IME number was changed—meaning that somebody took the chip out of Morales' phone and put it in another phone.

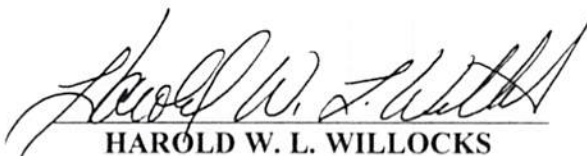
Detective Smith's testimony—in addition to providing evidence of Trinidad's connection to Morales' murder through the double hearsay statements of Trinidad, Encarnacion W-1, W-2, Cost-u-Less employee, Morales' family members and residents of Estate Castle Coakley—pointed to materially relevant tangible evidence which substantially corroborated the hearsay statements. Indeed, the El Sol Bar surveillance video showing Trinidad drinking with Morales at the El Sol Bar just an hour before his [Morales'] murder; the AT&T records showing that Trinidad had in less than two weeks following Morales' murder sold a cell phone that contained the identical chip that had been used in Morales' cell phone right up to the time of Morales' murder; and the fact that Morales was found dead by Detective Smith on March 20, 2010 with

his pockets empty and turned inside out, his gold chain missing and without any cash on his person, when presented together with the hearsay statements testified to by Detective Smith sufficiently support a clear and convincing showing that Trinidad committed the murder of Morales in the first degree.

III. CONCLUSION

For the foregoing reasons, the Court finds that the People's evidence adduced at the pre-trial detention hearing sufficiently meets the standard of clear and convincing evidence established in *Browne* and expounded in *Jalani Williams*.

Dated: August 19th 2010



HAROLD W. L. WILLOCKS
Judge of the Superior Court

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

By: 

~~Court Clerk Supervisor~~
Chief Deputy Clerk

Dated: 8/24/10

CERTIFIED TO BE A TRUE COPY

This 21 day of SEPT 20 10

VENETIA H. VELAZQUEZ, ESQ.

CLERK OF THE COURT

By  Court Clerk