

SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

CABA ALPHONSO WOODRUP,	)	
	)	
Petitioner,	)	
	)	
v.	)	CASE NO. ST-16-MC-47
	)	
GOVERNMENT OF THE VIRGIN ISLANDS,	)	
	)	
Respondent.	)	

MEMORANDUM OPINION

Pending before the Court is Petitioner Caba Woodrup's Petition for Writ of Habeas Corpus. For the following reasons, Woodrup's Petition will be denied.

FACTUAL AND PROCEDURAL HISTORY

On August 6, 2012, the Government of the Virgin Islands filed a nine count Information against Petitioner in connection with the shooting death of Patrick Smith. The Information charged Petitioner with Murder in the First Degree (Count One); Unauthorized Possession of a Firearm during the Commission of a Crime of Violence, Murder in the First Degree (Count Two); Murder in the Second Degree (Count Three); Unauthorized Possession of a Firearm during the Commission of a Crime of Violence, Murder in the Second Degree (Count Four); Assault in the First Degree (Count Five); Unauthorized Possession of a Firearm during the Commission of a Crime of Violence, Assault in the First Degree (Count Six); Assault in the Third Degree (Count Seven); Unauthorized Possession of a Firearm during the Commission of a Crime of Violence, Assault in the Third Degree (Count Eight); and Reckless Endangerment in the First Degree (Count Nine). Following a trial, the jury found Petitioner guilty on all counts. On January 29, 2013, the

Court sentenced Petitioner to a term of life imprisonment with regard to Count One; to a term of imprisonment of twenty-five years with regard to Count Two, with this sentence running consecutive to the sentence imposed on Count One; and to a term of five years imprisonment with regard to Count Nine, with this sentence running concurrent with the sentence imposed in Count Two. The offenses charged in Counts Three, Five, and Seven were deemed to be merged into the offense charged in Count One; and the offenses charged in Counts Four, Six, and Eight were deemed to be merged into the offense charged in Count Two.

Petitioner filed an appeal, and the Supreme Court of the Virgin Islands affirmed Petitioner's conviction on October 20, 2015. Petitioner then filed a Petition for Writ of Habeas Corpus on July 22, 2016.

STANDARD

Petitioner filed his Petition under 28 U.S.C. § 2254, but because the Virgin Islands has its own habeas corpus statute affording a petitioner the same relief as the federal statute, the Court will construe the Petition as a request for habeas relief under local law.

Section 3 of the Revised Organic Act of 1954 provides that “[a]ll persons shall have the privilege of the writ of habeas corpus and the same shall not be suspended except as herein expressly provided.”¹ In addition, the Virgin Islands Legislature “enacted chapter 91 of title 5 of the Virgin Islands Code [to] establish a procedure for seeking habeas corpus relief under Virgin Islands law, [which] codifies the right to habeas corpus and explains the process through which it can be obtained.”² Under the statute, “every person unlawfully imprisoned or restrained of his

¹ 48 U.S.C. § 1561.

² *Rivera-Moreno v. Government of the Virgin Islands*, 61 V.I. 279, 293-294, 2014 V.I. Supreme LEXIS 46, *13-15 (VI. 2014) (citing 5 V.I.C. §§ 1301-25).

liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint.”³ The statute also establishes the following “circumstances under which a petitioner may be discharged from custody”:

- (1) When the jurisdiction of such court or officer has been exceeded.
- (2) When the imprisonment was at first lawful, yet by some act, omission, or event which has taken place afterwards, the party has become entitled to a discharge.
- (3) When the process is defective in some matter of substance required by law rendering such process void.
- (4) When the process, though proper in form, has been issued in a case not allowed by law.
- (5) When the person having custody of the prisoner is not the person allowed by law to detain him.
- (6) Where the process is not authorized by any order, judgment or decree of any court, nor by any provision of law.
- (7) Where a party has been committed on a criminal charge without reasonable or probable cause.⁴

Discharge from custody is not a petitioner’s only remedy, however. “The habeas corpus statute recognizes that an incarcerated individual may not be entitled to immediate discharge from custody, yet may still be unlawfully imprisoned and entitled to relief.”⁵

“When presented with a petition for a writ of habeas corpus, [the Superior Court] must first determine whether the petition states a prima facie case for relief — that is, whether it states facts that, if true, entitle the petitioner to relief — and also whether the stated claims are for any reason procedurally barred.”⁶ “If the court determines that the petition does not state a prima facie case for relief or that the claims are all procedurally barred, the court will deny the petition outright,”

³ *Id.*

⁴ *Rivera-Moreno*, 61 V.I. at 293-294 (citing 5 V.I.C. § 1314).

⁵ *Rivera-Moreno*, 61 V.I. at 295.

⁶ *Rivera-Moreno*, 61 V.I. at 311, (citing *People v. Romero*, 883 P.2d 388, 391 (1994) (explaining the habeas corpus procedure under California's nearly identical statutes)).

but “if it appears that the writ ought to issue,” the Superior Court “shall grant [a writ of habeas corpus] without delay.”⁷

ANALYSIS

In his Petition, Woodrup asserts that his constitutional rights under the Fifth Amendment,⁸ Sixth Amendment,⁹ and Fourteenth Amendment¹⁰ were violated because of misconduct on the part of the prosecution and the Virgin Islands police, because of errors committed by the trial court, and due to his trial counsel’s ineffective assistance.¹¹

In order to successfully raise the issue of ineffective assistance of counsel under the Sixth Amendment, a petitioner “must prove that his trial counsel’s performance ‘fell below an objective ... standard of reasonableness.’”¹² “Tactical decisions about which competent counsel might disagree do not qualify as objectively unreasonable,”¹³ and there is a “strong presumption

⁷ *Rivera-Moreno*, 61 V.I. at 311 (citing 5 V.I.C. § 1304).

⁸ The Fifth Amendment of the United State Constitution provides that “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

⁹ The Sixth Amendment of the United State Constitution provides that “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.”

¹⁰ The Fourteenth Amendment of the United State Constitution establishes that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

¹¹ While Petitioner also lists the name and address of his appellate counsel on page 15 of his Petition, he does not raise any argument concerning his appellate counsel in his Brief supporting his Petition. As a result, the Court determines that Petitioner has not adequately asserted an ineffective assistance of counsel claim pertaining to his appellate counsel.

¹² *Corraspe v. People*, 53 V.I. 470, 479 (V.I. 2010) (quoting *Hill v. Lockhart*, 474 U.S. 52, 57 (1985)).

¹³ *Ibrahim v. Gov’t of the V.I.*, S. Ct. Civ. No. 2007-76, 2008 V.I. Supreme LEXIS 20, at *2 (V.I. Jan. 18, 2008) (unpublished) (citing *Bell v. Cone*, 535 U.S. 685, 702 (2002)).

that counsel's conduct falls within a wide range of reasonable professional assistance.”¹⁴ In addition, a petitioner must prove that “his counsel's conduct prejudiced him in the proceeding so that there is a ‘reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.’”¹⁵

Petitioner asserts that he received ineffective assistance of counsel because counsel failed to “properly present” defense witness Windell Lincoln at trial.¹⁶ Petitioner asserts Lincoln “would have been an (sic) perfect ‘alibi witness’ on behalf of [P]etitioner”¹⁷ and describes that Lincoln had testified that Petitioner was at Carnival Village at the time of the shooting at Paul M. Pearson Housing Complex.¹⁸

The record reflects that “Lincoln testified that on the day of the shooting, all four siblings went to the beach as a farewell to Woodrup, who planned to fly to Atlanta the next day for a job interview. According to Lincoln, after several hours at the beach, Woodrup and his other siblings went to the [C]arnival [V]illage, where Lincoln received a call from his niece informing him that there had been a shooting at Pearson Gardens.”¹⁹ Petitioner has not presented any facts showing how counsel failed to “properly present” Windell Lincoln at trial. As a result, Petitioner has failed to raise a colorable claim of ineffective assistance of counsel pertaining to his alibi defense.

Petitioner also argues that he received ineffective assistance of counsel because trial counsel failed to object to the Information on multiplicity grounds. Petitioner contends that the

¹⁴ *Suarez v. Government of the Virgin Islands*, 56 V.I. 754, 759-760, 2012 V.I. Supreme LEXIS 49, *5-7, 2012 WL 2288434 (VI. 2012) (citing *Bell*, 535 U.S. at 702).

¹⁵ *Suarez v. Government of the Virgin Islands*, 56 V.I. 754, 759-760, 2012 V.I. Supreme LEXIS 49, *5-7, 2012 WL 2288434 (VI. 2012) (quoting *Hill*, 474 U.S. at 57).

¹⁶ Petitioner's Brief, at page 3.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Woodrup v. People of the Virgin Islands*, 63 V.I. 696, 706, 2015 V.I. Supreme LEXIS 33, *8 (VI. 2015).

Court should have “ordered the Government to elect a count, in which, it will continue with at trial and dismiss the remaining counts”²⁰ and appears to argue that counsel should have raised an objection along the same lines.

“Multiplicity is the error of charging a single crime in separate counts.”²¹ If “each offense ‘requires proof of a fact which the other does not,’ the two offenses are not the same and the prohibition against Double Jeopardy is not implicated.”²² Some courts have determined that it is harmless error if a court permits a defendant to be charged and convicted based on a multiplicitous indictment or information so long as the punishments for the multiplicitous counts run concurrently²³ and so long as the evidence is sufficient to support the convictions.²⁴ In the Virgin Islands, however, “multiple convictions for the same offense, even if the sentences are ordered to be served concurrently, affect a defendant's substantial rights and constitute plain error.”²⁵ A party “waives a claim of multiplicity if he fails to raise it before trial.”²⁶

²⁰ Petitioner’s Brief, at page 10.

²¹ *United States v. Thompson*, 624 F.2d 740, 742 (5th Cir. 1980); see W. LaFare & J. Israel, 2 Criminal Procedure § 19.2 at 457-58 (1984) (“A multiplicity issue is . . . presented when a series of repeated acts are charged as separate crimes but the defendant claims they are part of a continuous transaction and therefore a single crime.”).

²² *United States v. Boffa*, 513 F. Supp. 444, 476, 1980 U.S. Dist. LEXIS 15474, *83 (D. Del. 1980) (quoting *Blockburger v. United States*, 284 U.S. 299, 52 S. Ct. 180, 76 L. Ed. 306 (1932)).

²³ See *United States v. Langford*, 946 F.2d 798, 804-05 (11th Cir. 1991) (finding that multiplicitous securities fraud counts were harmless error because sentences were concurrent).

²⁴ See *Moore v. Bell*, 2009 U.S. Dist. LEXIS 66548, *54, 2009 WL 2366139 (M.D. Tenn. July 29, 2009) (“the trial court did not err by refusing to sever the charge [and] . . . any error would have been harmless in any event, since the evidence was “entirely sufficient to support the defendant's conviction”).

²⁵ *Williams v. People of the Virgin Islands*, 56 V.I. 821, 833-834, 2012 V.I. Supreme LEXIS 54, *20, 2012 WL 2514913 (VI. 2012).

²⁶ *United States v. Chen*, 2008 U.S. Dist. LEXIS 10837, *4-5 (D.V.I. Feb. 12, 2008) (citing *United States v. Mosley*, 786 F.2d 1330, 1333 (7th Cir.), cert. denied, 476 U.S. 1184, 91 L. Ed. 2d 548, 106 S. Ct. 2919 (1986). See also *United States v. Colton*, 231 F.3d 890, 909 (4th Cir. 2000) (“Failure to object to a count on grounds of multiplicity prior to trial generally waives that objection.”); *United States v. Whitney*, No. 92-1038, 1993 U.S. App. LEXIS 274, at *2 (1st Cir. Jan. 12, 1993) (“Unless a defendant raises [a multiplicity] objection to the indictment prior to trial (while time remains for the government to rewrite the indictment to cure any such error), he waives the objection.”); *United States v. Galvan*, 949 F.2d 777, 781 (5th Cir. 1991) (“[A] defendant must raise [a multiplicity objection] in a pre-trial motion. By not doing so, a defendant waives her objection to multiplicity in the indictment.”) (internal citations omitted).

It is well established that “[c]onvictions for violating the statute pertaining to unauthorized use of a firearm during the commission of a crime of violence and for the predicate crime of violence are not multiplicitous because the legislature clearly intended for defendants to be punished for violating the firearm statute, as well as for committing the predicate crime of violence referenced in the statute.”²⁷ As a result, Petitioner’s multiplicity claim fails with regard to Counts One and Two. In addition, Petitioner’s claim fails with regard to Counts Three, Five, and Seven because these counts were deemed to be merged into Count One;²⁸ and Petitioner’s claim fails with regard to Counts Four, Six, and Eight as these counts were deemed to be merged into Count Two.

In addition, reckless endangerment, the offense charged in Count Nine is distinct from first degree murder, the offense charged in Count One, and distinct from the unauthorized possession of a firearm during the commission of first degree murder, the offense charged in Count Two. The intent to kill and the causation of death of another are elements of first degree murder,²⁹ and these elements need not be proven to establish reckless endangerment. Reckless endangerment requires criminal conduct in a public place,³⁰ whereas this element does not need to be proven to establish first degree murder or the unauthorized possession of a firearm. The charge of unauthorized

²⁷ *Williams v. People of the Virgin Islands*, 56 V.I. 821, 824, 2012 V.I. Supreme LEXIS 54, *1, 2012 WL 2514913 (VI. 2012) (citing 14 V.I.C. § 2253(a)). See also *People of the Virgin Islands v. Colon*, 2014 V.I. LEXIS 27, *16, 60 V.I. 149, 161, 2014 WL 1884918 (V.I. Super. Ct. 2014) (“The issue of whether the dangerous weapon was used in a crime of violence under subsection (B) is not an element of the crime, but, rather, a sentence enhancer which also must be found by a jury beyond a reasonable doubt”).

²⁸ See, e.g., *Woodrup v. People of the Virgin Islands*, 63 V.I. 696, 710, 2015 V.I. Supreme LEXIS 33, *15-16 (VI. 2015) (“Since these crimes are lesser-included offenses of first-degree murder, Woodrup necessarily completed these offenses in carrying out the first-degree murder”).

²⁹ A person is guilty of first degree murder if the homicide “is perpetrated by means of poison, lying in wait, torture, detonation of a bomb or by any other kind of willful, deliberate and premeditated killing.” 14 V.I.C. § 922.

³⁰ A “person is guilty of reckless endangerment in the first degree when, under the circumstances evidencing a depraved indifference to human life, he recklessly engages in conduct in a public place which creates a grave risk of death to another person.” 14 V.I.C. § 625.

possession of a firearm during the commission of a crime of violence requires the use of an unlicensed firearm,³¹ which does not need to be proven to establish reckless endangerment. Furthermore, “when different victims are involved, there are generally different offenses.”³² While Counts One and Two allege that Petitioner shot and killed Patrick Smith with a firearm, Count Nine alleges that Petitioner unlawfully fired shots at Patrick Smith in the presence of other adults and children in the Paul M. Pearson Housing Community.³³ As a result, the offenses in Counts One, Two, and Nine are not the same in law³⁴ and are not multiplicitous. Accordingly, Petitioner has failed to raise a colorable claim that the Information violated his constitutional rights.

Petitioner also asserts that his constitutional rights were violated because the prosecution “knowingly used perjured testimonies by the Government’s key witnesses Leshelle Gumbs and Austin Callwood in which had been tainted by Detective Allen’s deliberate coercing (sic) witnesses with threats of incarceration, etc.”³⁵

³¹ 14 V.I.C. § 2253 provides that “[w]hoever, unless otherwise authorized by law, has, possesses, bears, transports or carries either, actually or constructively, openly or concealed any firearm, as defined in Title 23, section 451(d) of this code, loaded or unloaded, may be arrested without a warrant, and shall be sentenced to imprisonment of not less than ten years and shall be fined not less than \$10,000 nor more than \$15,000 or both the fine and imprisonment, except that if such person shall have been convicted of a felony in any state, territory, or federal court of the United States, or if such firearm or an imitation thereof was had, possessed, borne, transported or carried by or under the proximate control of such person during the commission or attempted commission of a crime of violence, as defined in subsection (d) hereof, then such person shall be fined \$25,000 and imprisoned not less than fifteen (15) years nor more than twenty (20) years. The foregoing applicable penalties provided for violation of this section shall be in addition to the penalty provided for the commission of, or attempt to commit, the felony or crime of violence.”

³² *State v. Merritt*, 1996 Wisc. App. LEXIS 1352, *6, 557 N.W.2d 256 (Wis. Ct. App. 1996) (citing *State v. Hartnek*, 430 N.W.2d 361, 363 (Wis. Ct. App. 1988)).

³³ See *Woodrup*, 63 V.I. at 711 (the “[e]lements [of the charge of reckless endangerment] were satisfied by the testimony that Woodrup fired several gunshots on a public street populated by several members of the public — including Gumbs and Callwood”).

³⁴ See, e.g., *State v. Garcia*, 1998 Wisc. App. LEXIS 1364, *9-10, 223 Wis. 2d 265, 588 N.W.2d 927 (Wis. Ct. App. 1998) (citing *Blockburger v. United States*, 284 U.S. 299 (1932)).

³⁵ Petitioner’s Brief, at page 10.

Petitioner directs the Court's attention to Leshelle Gumbs' initial statement to the police on April 25, 2010, in which she described Smith's shooter as "this guy whom I never saw before,"³⁶ and to Gumbs' May 13, 2010, statement to police, in which she identified Petitioner as the shooter and provided information about his nickname and his mother's residence.³⁷ Gumbs' statements, while contradictory, do not support Petitioner's allegations that the prosecution "knowingly used perjured testimonies" or that "Detective Allen's deliberat[ly] coerc[ed] witnesses with threats of incarceration." Because "unsupported accusations are insufficient to merit habeas relief,"³⁸ Petitioner has failed to state a prima facie case for habeas relief on this claim.

Petitioner also directs the Court's attention to a video recorded interview between Detective Allen and Austin Callwood during which Callwood identified Petitioner as Smith's shooter. A portion of the interview between Callwood and Allen is as follows:

Allen: So at this time I'm going to show you a photo array containing six individuals. I want you to look at that photo array from left to right and tell me if you recognize anybody, whether you met them before, how do you know the person, anyone that you can identify. Now before you look at it, describe the shooter you described.

Callwood: Yes. He was, like I said stocky built like a football player type body more than 200 pounds, 240—250 pounds; very dark skin and heavy set. I'd say about, probably five eleven/six feet—ish in height, and he had locks that seem to be bunched but as I said it came out on the sides.

Allen: Ok.

Callwood: That was one of the distinguishing features on him, outside the fact that he just looked pretty cold and calculating. There was just no emotion as he passed down the side of the vehicle.

³⁶ Gumbs' statement to the police, dated April 25, 2010.

³⁷ Gumbs' statement to the police, dated May 13, 2010.

³⁸ See, e.g., *Miniel v. Cockrell*, 2001 U.S. Dist. LEXIS 26786, *39 (S.D. Tex. Oct. 26, 2001). See also *United States v. Roane*, 378 F.3d 382, 401 (4th Cir. 2004) (no post-conviction relief or evidentiary hearing warranted when petitioner offered only "conclusory accusations"); *Nickerson v. Lee*, 971 F.2d 1125, 1136 (4th Cir. 1992) ("Unsupported, conclusory allegations do not entitle a habeas petitioner to an evidentiary hearing."), overruled on other grounds by, *Gray v. Netherland*, 518 U.S. 152, 165-66, 116 S. Ct. 2074, 135 L. Ed. 2d 457 (1996); *Lewis v. Hand*, 362 P.2d 639, 641, 1961 Kan. LEXIS 308, *6 (Kan. 1961) ("unsupported or uncorroborated statements of the accused in a subsequent habeas corpus proceeding will not justify the issuance of a writ").

Allen: Okay. So I'm going to go ahead and show you these six photographs. From left to right 1, 2, 3, 4, 5, 6. Look around and see if you could identify anyone that you are familiar with and how you know that person[.]

Callwood: I don't know any of these people. I would say it could be Number 4 or Number 6.

Allen: So right now, you narrow down two people. Number 4 and Number 6.

Callwood: {Pause} Number 4.

Allen: Number 4. Okay. At this time Mr. Austin Callwood just picked out photo [N]umber 4 as the person. And who the person that you know?

Callwood: That looks like the guy that passed down the left side of the vehicle.

Petitioner argues "See: *Simmons v. United States*, 390 U.S. 377, 384 ... (1968); *Thomas v. Varner*, 428 F.3d 497 [(3rd. Cir. 2005)] that there's been an 'misidentification,' that the pretrial identification process; conducted by Detective Allen, of Callwood was so impermissibly suggestive as to violate the petitioner's rights to a fair impartial trial."³⁹

In *Simmons*,⁴⁰ the Court described several examples of improper employment of photographs by police such as when "the police display to the witness only the picture of a single individual who generally resembles the person he saw, or if they show him the pictures of several persons among which the photograph of a single such individual recurs or is in some way emphasized. The chance of misidentification is also heightened if the police indicate to the witness that they have other evidence that one of the persons pictured committed the crime."⁴¹

In *Varner*,⁴² a witness was shown 750 pictures of males who were arrested for robbery, but made no identification. Subsequently, the witness was shown "about 10-12 more photos, but still could not identify anyone. At that time, the detective allegedly pulled two pictures from the group

³⁹ Petitioner's Brief, at page 23.

⁴⁰ *Simmons v. United States*, 390 U.S. 377, 385, 88 S. Ct. 967, 971-972, 19 L. Ed. 2d 1247, 1254, 1968 U.S. LEXIS 2167, *15-16 (U.S. 1968).

⁴¹ *Id.*

⁴² *Thomas v. Varner*, 428 F.3d 491, 495-496, 2005 U.S. App. LEXIS 23838, *3 (3d Cir. Pa. 2005).

and asked [the witness] to take a ‘real good’ look at them, and [the witness] made a tentative identification.”⁴³ At trial, the witness made an in-court identification of the defendant. The Third Circuit Court of Appeals determined that “the identification was the product of unduly suggestive photographic lineups.”⁴⁴

First, the authority Petitioner has cited cannot prove that “there’s been a misidentification” in this case. The cited authority involves entirely different parties and facts from those in this matter. In addition, Petitioner has not alleged any facts suggesting that Detective Allen improperly presented photographs to Callwood in a manner decried in *Simmons* and *Varner*. There is no evidence indicating that Callwood was “told anything about the progress of the investigation” or that the Detective Allen “in any other way suggested which person[] in the pictures [was] under suspicion.”⁴⁵ While Petitioner objects to Allen’s statement: “So right now, you narrow down two people. Number 4 and Number 6,” this statement, under the circumstances, cannot be considered to be impermissibly suggestive.

In addition, it is noteworthy that trial counsel objected to the identifications, a suppression hearing was held, and this Court denied Petitioner’s suppression motion. Accordingly, Petitioner has failed to demonstrate that he received ineffective assistance of counsel with regard to the out of court identifications, and he has not demonstrated that the Court committed plain error by denying his suppression motion.

Furthermore, Petitioner has not presented any evidence supporting his contention that Detective Allen deliberately coerced Callwood with “threats of incarceration.” Because

⁴³ *Id.*

⁴⁴ *Id.*, at 504.

⁴⁵ *Simmons*, 390 U.S. at 385.

“unsupported accusations are insufficient to merit habeas relief,”⁴⁶ Petitioner has failed to state a prima facie case for habeas relief on this claim.

The Court finds that Petitioner has failed to make a showing that his constitutional rights were violated by error of this Court, by improper conduct of the prosecution or the police, or by ineffective assistance of counsel. As a result, Petitioner’s Petition will be denied.

An Order consistent with this Opinion shall follow.

Dated: August 26, 2016

ATTEST: Estrella H. George
Acting Clerk of Court / /

by: [Signature]
Donna D. Donovan
Court Clerk Supervisor 9/1/16

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

⁴⁶ *Miniel v. Cockrell*, 2001 U.S. Dist. LEXIS 26786, *39 (S.D. Tex. Oct. 26, 2001).

CERTIFIED A TRUE COPY
DATE: Sept. 01, 2016
ESTRELLA H. GEORGE
Acting Clerk of the Court
By: [Signature]
Cameil A. Clarke
Court Clerk II