

FILED

January 23, 2023 02:03 PM

SCT-Crim-2022-0115
VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

JIMMY DAVIS,

Appellant/Defendant,

vs.

PEOPLE OF THE VIRGIN ISLANDS,

Appellee/Plaintiff.

SCT- CRIM-2022-0115

Superior Court Case No. SX-2020-
CR-00098

**On Appeal from the Superior Court
of the Virgin Islands,
Division of St. Croix,
Case No. 2020-CR-00098 (STX)**

JOINT APPENDIX TO BRIEF FOR THE APPELLANT

Andrew C. Simpson, P.C.
Howard L. Phillips
Counsel for Jimmy Davis
2191 Church St. Ste 105
Christiansted, VI 00820-4671
340-719-3900
340-719-3903 (fax)
hphillips@coralbrief.com
www.coralbrief.com

TABLE OF CONTENTS

CONTENTS	PAGE
Table of Contents	i
Notice of Appeal	4
Briefing Schedule	6
Declaration of Counsel	12
Motion to Transfer	13
Memorandum in Support Transfer	15
Transcript, Hearing 2022-10-26, <i>People v Davis</i>	31
Order -Memorandum Modification	115
Order Denying Transfer	130
Order Conditions of Release	134
Record of Proceeding 2022-10-26	137
Defendant Amended Motion- Moran	141
Emails Officer Sasso	150
Superior Court Docket Sheet	157

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

JIMMY DAVIS,

Appellant/Defendant,

vs.

PEOPLE OF THE VIRGIN ISLANDS,

Appellee/Plaintiff.

Superior Court Case No. SX-2020-
CR-00098

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Appellant, Jimmy Davis (“Davis”) by and through undersigned and appointed counsel, proceeding *In Forma Pauperis* by virtue of the Superior Court’s Order entered on August 24, 2022, appeals to the Supreme Court of the Virgin Islands from Superior Court Orders, 1) Setting Bail and Pretrial Release Conditions; 2) Denying a Motion to Compel the Bureau of Corrections (“BOC”) to Produce Evidence supporting it’s representations regarding alleged threats of harm to Davis by inmates, or implement an investigation; and 3) Denying Davis’ Motion to be Returned to the Bell Adult Detention Facility (“Bell”) on St. Croix from the Criminal Justice Complex (“CJC”) on St. Thomas, all entered by the Superior Court on November 29, 2022.

The reasons/issues to be presented on appeal include, without limitation, the following:

1. Whether the Superior Court Judge erred when it failed to reduce bail to a reasonable amount in response to Davis' Renewed Motion for Modification of Bail and Release Conditions, on remand;
2. Whether the Superior Court abused its discretion by considering factors/evidence unrelated to the issue of danger to the community or nonappearance for trial when setting bail and release conditions;
3. Whether the Superior Court erred by reducing bail from \$1,000,000.00 to \$250,000 in light of the requirement to impose the *least* restrictive conditions. V.I. R. CRIM. P. 5-1.
4. Whether the Superior Court erred denying Davis' Motion to Compel BOC to Produce Evidence supporting the Agency's representation that Davis was not transferred to CJC for retaliation or for punishment but rather (without supporting evidence/records) because of potential harm to Davis *by other inmates*.

5. Whether the Superior Court erred when it denied Davis' Motion for an Order Directing BOC to transfer Davis from CJC to the Bell facility on St. Croix when his attorney if located on St. Croix; when the confidential attorney-client relationship has been disrupted by BOC procedures and practice.

Respectfully submitted,

ANDREW C. SIMPSON, P.C.
Attorneys for Appellant Davis



Dated December 13, 2022 By: Howard L. Phillips (R2014)
2191 Church St., Ste. 5
Christiansted, VI 00820
Tel: (340) 719-3900
hphillips@coralbrief.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 13, 2022 I served the foregoing document to the following parties/attorneys **Via the VIJEFS:**

Amie M. Simpson, Esq.
Assistant Attorney General
Department of Justice
213 Estate La Reine, Kingshill
RR 1 Box 6151
St. Croix, Virgin Islands 00850
amie.simpson@doj.vi.gov
Attorneys for People of the Virgin Islands

Hon. Douglas A. Brady
Judge of the Superior Court of the Virgin Islands
Superior Court of the Virgin Islands
R.H. Amphlett Leader Justice Complex
Christiansted, VI 00821

Tamara Charles, Clerk of the Court
Judge of the Superior Court of the Virgin Islands
R.H. Amphlett Leader Justice Complex
Christiansted. VI 00821

/s/ Howard L. Phillips
Howard L. Phillips

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

Jimmy Davis
Appellant/Defendant,

SCT-CRIM-2022-0115
SX-2020-CR-00098

v.

People of the Virgin Islands
Appellee/Plaintiff.

SCHEDULING ORDER

Because no transcripts have been ordered, the record is now complete pursuant to Virgin Islands Rules of Appellate Procedure (V.I.R.APP.P.) 10 and 11. Accordingly, it is hereby

ORDERED that pursuant to V.I.R.APP.P. 11(b), the Clerk of the Superior Court **SHALL FILE the E-RECORD** on or before December 26, 2022. It is further

ORDERED that pursuant to V.I.R.APP.P. 25,

1. Appellant **SHALL FILE AND SERVE** an opening brief and the joint appendix within forty (40) days, on or before January 23, 2023
2. Appellee **SHALL FILE AND SERVE** a brief within thirty (30) days after filing and service of the appellant's brief and the joint appendix.
3. Appellant **MAY FILE AND SERVE** a reply brief within fourteen (14) days after filing and service of the appellee's brief.

Parties are **ADVISED** the following:

- Pursuant to V.I.E-FILE R. 13 all briefs, appendices, and other documents filed by a member of the Virgin Islands Bar must be electronically filed. Parties proceeding *pro se* who are not members of the Virgin Islands Bar may, but are not required to, e-file documents. *Pro se* parties that have not registered on the Virgin Islands Supreme Court Electronic Filing system must be conventionally served.
- Pursuant to V.I.E-FILE R. 13, a party who e-files a brief or appendix must conventionally file seven (7) paper copies of the brief and four (4) paper copies of the appendix within seven (7) days after electronic transmission of the e-document.
- For multiple appellants or multiple appellees, all may join in one brief or may reference portions of each other's briefs. But there can only be one joint appendix.

- As a courtesy, the Virgin Islands Supreme Court has provided checklists for the format and content of briefs and the joint appendix.¹ Parties are encouraged to consult these checklists prior to preparing their briefs and designating content for the joint appendix.

It is ORDERED that copies of this Order shall be distributed to the parties and the Clerk of the Superior Court.

Dated: 12/14/2022

VERONICA J. HANDY, ESQ.
Clerk of the Court

By: /s/ Reisha Corneiro
Deputy Clerk II

Copies to: Justices of the Supreme Court
Howard Lee Phillips, Esq.
Amie Marie Simpson, Esq.
Veronica J. Handy, Esq., Clerk of the Supreme Court
Tamara Charles, Clerk of the Superior Court
Supreme Court Law Clerks
Supreme Court Secretaries
Order Book

¹ These checklists are available on the Virgin Islands Judicial Branch website www.vicourts.org. In the “For the Public” menu, click on Court Forms, then click on Supreme Court, then open the “Office of the Clerk” folder.

FILED

October 04, 2022 04:23 PM

SX-2020-CR-00098

TAMARA CHARLES
CLERK OF THE COURT

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

PEOPLE OF THE VIRGIN ISLANDS,

Plaintiff,

vs.

No. SX- 2020-CR-00098

JIMMY DAVIS,

Defendant.

DECLARATION OF COUNSEL

1. I have been newly appointed to represent Jimmy Davis.
2. Jimmy Davis is housed on St. Thomas even though the situs of allegation against him and his counsel is in St. Croix.
3. It is counsel's practice to assiduously keep clients informed of every aspect of their case. As of this date counsel has had no opportunity to review any of the discovery in this matter with Davis. This review generally requires and is best achieved by meeting in-person to review the documents, statements and evidence together.
4. Confidentiality in all oral and written communications is essential to keeping a client adequately informed.
5. The sexual nature of a rape first degree charge increases the need for confidentiality.

A. Written Communications

- 6. First, there has never been an instance in my experience when a client at the Bell Facility did not promptly receive written correspondence and/or discovery materials. No client housed on St. Croix has complained of even a suspicion that the confidentiality of written material or correspondence was violated by a Bell detention facility employee.
- 7. Counsel attempted to first communicate with Davis on **August 30, 2022** by sending an introductory letter to Davis. The letter was received by Davis weeks after it was placed in the U.S. mail. Davis advised that he finally received counsel’s introductory letter during a telephone call on **September 13, 2022**.
- 8. Counsel was advised that in order to assure that Davis would timely receive his mail in the future to send correspondence using a BOC employee email.
- 9. *The following is in no way intended to disparage the St. Thomas facility staff employee bound by Criminal Justice Complex facility procedures and protocols.*
- 10. The email exchange was as follows:¹

9/8/22²

Good morning Ms. Sasso.

Yesterday during the Zoom call I asked Mr. Davis if he received my introduction letter last week. He said he did not and it was not returned. I will resend. Would you please provide me his inmate number for mailing?

9/8/22³

Can you email the letter if possible?

¹ Emails attached as Ex A.

² Email No. 9

³ Email No. 10

9/9/22⁴

Good morning Ms. Sasso.

Here is my introduction letter, *but I need to be able to send confidential correspondence to him. Is that not possible?* [Emphasis added]

Thanks for passing this letter and attachments to Mr. Davis.

9/9/22⁵

I sent this letter and attachments to Davis right after I was appointed. He did not know who I was when we had the videoconference. He had not received the letter when I spoke to him. The letter was not returned in the mail.

It is important that he receives attorney mail in a timely way. This is my first time with a client in your jail and I apologize for not knowing the inmate mailing process. This is why I asked for his inmate number; to ensure that he gets attorney-client mail. [Emphasis added]

I hope that this clarifies.

9/9/22⁶

What do you mean

9/9/22⁷

Any documents that you have Mr. Davis just emailed them to me and I will make sure he gets them in a timely manner [Emphasis added]

11. Counsel made no attempt to argue with the BOC employee assuming that she was following whatever procedures and protocols for handling inmate mail not designed to insure attorney-client confident
12. Counsel's experience with the Bell Detention facility is such that I never questioned whether confidential material and correspondence was being received

⁴ Email No. 11

⁵ Email No. 12

⁶ Email No. 13

⁷ Email No. 14

by my client without being viewed by BOC employees, other than to check for contraband.

13. Counsel would usually provide a client with motions made on his behalf. However, counsel has no confidence that the instant motion would not view a potentially acted upon by BOC employees who may be affronted by this motion. The dint of this lack of confidence is manifest when considering reviewing the discovery with Davis in light of the salacious nature of the rape first degree allegations.

B. Oral Communications

14. The STT facility is apparently not set up for confidential telephone or videoconference communication between counsel and client.
15. First, to make an appointment for video conference with a STX inmate Counsel need only send an email to RnDSTX@boc.vi.gov with a date and time and a link is sent to counsel. The inmate is placed in an interview room that has been used for in-person inmate meetings. The correction officer assures the video and audio is functioning, leaves, and closes the door to assure confidentiality. Counsel can hear when another person opens the door to enters the interview room and the conversation can be stopped or changes when the metal door is opened.
16. With respect to the STT facility counsel is required to create a Zoom account and send the link to the facility for the date time the client would be available.
17. During such a videoconference with Davis on September 7, 2022 it was clear that there is little to no effort to assure inmate confidentiality. During video conference counsel could hear others within earshot of Davis.

18. During a telephone call counsel could hear a voice other than the Davis and asked him if someone was near and he stated yes and the discussion had to be sanitized so as to not disclose confidentiality to a jail employee who just happened to be passing by. At one point Davis said something unclear and counsel believed that he was ending the telephone conversation. Davis called back and said that he was speaking to another person something about movement within the facility.
19. On Monday October 3, 2022 counsel arranged for a videoconference with Davis. Davis was able to move the computer camera around to allow counsel to see the room. He described the walls as hollow cement block that allows one to place an ear to the other side of the wall and hear what is being spoken in the room inside.
20. The room appears to be a small interview room. There is what appears to be a surveillance or recording camera (maybe with microphone) in at least one upper corner of the room. While we were talking Davis quietly rose from his chair; opened the door; and some uniformed person was quickly walking away from the doorway as if he/she was listening at the door.
21. Understandably Davis cannot discuss any aspect of his case with counsel under these conditions. Counsel would be remiss to attempt to discuss the rape charges with Davis in this environment; that is antithetical to the confidentiality necessary to maintain a privileged attorney-client relationship.
22. Counsel has no reason to believe that unlike the St. Croix facility the videoconference and telephone facilities for inmates at the St. Thomas jail is not set up to facilitate constitutionally mandated attorney-client confidentiality.

23. I declare under penalty of perjury that to the best of my knowledge and belief
the above is true and correct.

Signed on October 4, 2022 in Christiansted, USVI.

A handwritten signature in black ink, appearing to read 'H. Phillips', written over a horizontal line.

Howard L Phillips

FILED

October 04, 2022 04:23 PM

SX-2020-CR-00098

TAMARA CHARLES
CLERK OF THE COURT

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

PEOPLE OF THE VIRGIN ISLANDS,

Plaintiff,

vs.

No. SX- 2020-CR-00098

JIMMY DAVIS,

Defendant.

**JIMMY DAVIS' EMERGENCY MOTION TO RETURN TO
ST. CROIX BELL DETENTION FACILITY**

For the reasons stated in the memorandum in support of this motion and counsel's declaration Jimmy Davis respectfully moves the Court to direct the Virgin Islands Bureau of Corrections ("BOC") to transfer him immediately from the St. Thomas jail to the detention facility on St. Croix. Davis' motion to return to St. Croix is emergent, appropriate and necessary because his First Amendment and Sixth Amendment constitutional right to confidential access to his attorney is being violated, and his right to effective assistance of counsel to prepare for trial outweighs BOC employees' personal objections; as ostensibly compelling as they may be.

A proposed order is filed contemporaneous with this motion.

Respectfully submitted,

ANDREW C. SIMPSON, P.C.
Attorneys for Defendant`



Dated October 4, 2022

By: Howard L. Phillips (R2014)
2191 Church St., Ste. 5
Christiansted, VI 00820
(P) 340-719-3900
hphillips@coralbrief.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 4, 2022 a foregoing copy of this document was served upon the parties listed below via the Superior Court electronic service system:

Amie Simpson, Esq. AAG
amie.simpson@doj.vi.gov

/s/ Howard L. Phillips
Howard L. Phillips

FILED

October 04, 2022 04:23 PM

SX-2020-CR-00098

TAMARA CHARLES
CLERK OF THE COURT

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

PEOPLE OF THE VIRGIN ISLANDS,

Plaintiff,

vs.

No. SX- 2020-CR-00098

JIMMY DAVIS,

Defendant.

MEMORANDUM IN SUPPORT OF
EMERGENCY MOTION TO RETURN TO ST. CROIX

“Confidentiality is a Cornerstone to the Attorney-Client relationship”

I. Introduction

Unlike the Bell detention facility on St. Croix there can be no confidence that Counsel’s written material and oral conversations with Jimmy Davis at the St. Thomas jail are confidential and privileged.¹

Privilege is the cornerstone upon which the attorney-client relationship is founded. The purpose of the attorney-client privilege “is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice.” *Ward v. Graydon, Head & Ritchey*, 70 N.E.2d 613, 616, (2001). See *United States ex rel. Barko v. Halliburton Co.*, 74 F. Supp. 3d 183, 190 (D.D.C. 2014) (The cornerstone requirement of the attorney-client privilege is intent to keep the communication

¹ See Declaration of Counsel Attached.

confidential). The attorney-client privilege is the oldest of the privileges for confidential communications known to the common law. 8 J. Wigmore, Evidence § 2290 (McNaughton rev. 1961); *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981).

Accordingly, Jimmy Davis respectfully moves the Court to direct the Virgin Islands Bureau of Corrections (“BOC”) to transfer him from St. Thomas jail to the St. Croix detention facility. David submits that his transfer is necessary because his First Amendment and Sixth Amendment constitutional right to confidential access to his attorney is being violated.

II. Argument

A. Written confidentiality is protected by the First and Sixth Amendment of the U.S. Constitution

Davis is charged with rape first degree. This charge alone means that extraordinary measures to assure that confidential privileged attorney-client correspondence involving strategy; assessment of the discovery; and even discovery, where appropriate, are warranted. The St. Croix and St. Thomas facilities appear to have different policies and actual practices related to the confidential inmate conferences, mail and written material.

1. Davis’ right to mail is protected by the First Amendment.

The St. Thomas jail requested by email that to ensure Davis received his mail timely Counsel should send Davis’ mail through a BOC email address.²

Indisputably a prisoner's right to receive mail is long held protected by the

² Declaration of Counsel ¶10.

First Amendment. *Pell v. Procunier*, 417 U.S. 817, 822 (1974). Corrections officials may impose restrictions on incoming mail that are “reasonably related” to the prison's security needs or other “legitimate penological objectives.” *Turner v. Safley*, 482 U.S. 78, 87, (1987). In order to justify an intrusion into the attorney-client correspondence corrections officials must “put forth legitimate reasons for interfering with a prisoner's incoming mail.” *Knop v. Johnson*, 977 F.2d 996, 1012 (6th Cir. 1992) Corrections officials may require that all legal mail be clearly marked as such before receiving special treatment. *Wolff* at 576

However, with respect to Davis, instead of providing his inmate number to ensure timely mail delivery as requested by Counsel the BOC employee advised written correspondence, (and presumably any written material such as this motion) may be sent to Davis by email by using a BOC email address.³

With respect, and with no disparagement intended to the BOC employee who gave this instruction, this risible suggestion is untenable and wholly unacceptable. There is no legitimate penological reason to require circumvention of the U.S. Mail system by requiring attorney correspondence be delivered through a BOC email address. *Davis has an unassailable right to receive confidential attorney written material by U.S. mail.*

In Counsel’s experience timely receipt by an inmate of written material by U.S. mail has not been an issue at the Bell facility. Bell has been required counsel to send correspondence or written material to an inmate using a BOC email. This is not the

³ See Declaration of Counsel ¶¶ 6-13, Ex. A

case at the St. Thomas jail; *at least with respect to Davis*. The mail delivery procedure suggested by the BOC employee clearly violates Davis' constitutional right to mail under the First Amendment. Sending inmate mail using a BOC address undermines the corner stone of the attorney-client relationship.

2. Intrusions into attorney-client correspondence are subject to the Sixth Amendment.

In criminal settings the Sixth Amendment protects the attorney-client relationship from unwarranted intrusion. *Wolff v. McDonnell*, 418 U.S. 539 (1974). The Supreme Court of the United States has long recognized that the Sixth Amendment protects the attorney-client relationship from intrusion in the criminal setting. *Wolff* at 576 This protection is a development stemming from an inmate's fundamental right to unfettered access to the courts, without which all other rights of an inmate are illusory.

In conjunction with the Sixth Amendment an inmate's right to confidential mail has evolved into one of *non-interference by prison officials with postal communications between an inmate and his counsel which relate to the legality of either his criminal conviction or the condition of his incarceration*. *Adams v. Carlson*, 488 F.2d 619 (7th Cir.1973); *Jackson v. Mowery*, 743 F. Supp. 600, 606 (N.D. Ind. 1990)

It then follows that traditionally recognized privacy of the lawyer-client relationship [must] be implemented in the detention/corrections context. Thus "*communications by post between an inmate and his attorney are sacrosanct*" [Emphasis added] subject *only* to inspection for the presence of contraband; which

falls short of opening it when the inmate is not present. *Adams v. Carlson*, 488 F.2d 619 (7th Cir.1973); *Jackson v. Mowery*, 743 F. Supp. 600, 606 (N.D. Ind. 1990)

This counsel has not made nor received a complaint or concern from Bell inmates that BOC employees are reading their mail or that mail is not being timely received.

On the other hand, with respect to the St. Thomas jail, sometime after sending client an introduction letter, a copy of the Appointment Order and Notice of Appearance, a videoconference was arranged. Davis expressed surprise and understandable trepidation to speak to counsel. He had no idea this counsel had been appointed by this Court to represent him.⁴

Incredulously, when Counsel attempted to obtain Davis' inmate number to facilitate his timely receipt of mail a St. Thomas BOC employee advised Counsel to send correspondence to Davis (presumably all written material) by email to a BOC employee email address. Again, and importantly there is no intent to criticize an employee following the policy and practices of the jail but the process of sending client correspondence or case materials through a BOC email is unconstitutional. It is not believed that the employee devised this procedure on her own but *the email requirement reflects an institutional lack of concern for inmate Davis' confidentiality.*

Davis has a right to keep attorney correspondence and written materials secret. *See Thompson v. Ferguson*, 2020 WL 7872629, at *12 (E.D. Pa. Dec. 31, 2020)

⁴ In addition, it did not seem to counsel that Davis was alone during the entire conference as other voices could be heard over the phone.

(elucidating that an inmate's right to confidentiality of legal mail is clearly established)

The St. Thomas jail legal mail policy/practice, as expressed by a BOC employee, requiring that the legal mail be sent to Davis through a BOC email address fails to reasonably protect Davis' right to legal mail confidentiality. This practice does not pass constitutional muster because it is not "reasonably related to legitimate penological interests." *See Turner v. Safley*, 482 U.S. 78, 89, (1987) (when a prison policy or practice impinges on an inmates' constitutional rights, the regulation is valid only if it is reasonably related to legitimate penological interests).

The United States Supreme Court promulated the "Turner factors" as a tool for this issue. The *Turner* analysis requires a court must consider:

1. When a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests. *Turner* at 89

Here, there is no penological reason to justify attorney-client correspondence and case material be sent to Davis through a BOC email.

2. A second factor relevant in determining the reasonableness of a prison restriction is whether there are alternative means of exercising the right that remain open to prison inmates. *Turner* at 107

In this case BOC has an alternative housing location for Davis. The Bell detention facility has demonstrated policies and practices that allow for attorney-client written materials to be sent confidentially through regular U.S. Mail.

3. A third consideration is the impact accommodation of the asserted constitutional right will have on guards and other inmates, and on the allocation of prison resources generally.
Turner at 90

Based a past incident transferring Davis could have an impact on particular BOC medical staff employee who had unsavory incidents with Davis (only if he remains a BOC employee(s) at Bell). But Davis is keenly aware that it is now in his interest to be a model inmate if and when he is returned to St. Croix. It is also clear BOC probably will not hesitate to return Davis to St. Thomas if they feel it necessary.

Importantly Davis asserts that he was not charged with the conduct that led to his transfer. Consequently, BOC denied his due process rights to challenge or explain the behavior that resulted in his retaliatory transfer to St. Thomas. Davis has a right to not be involuntarily medicated for reasons not explained to him or necessary.

This past experience alone should not foreclose – and does not outweigh – giving Davis the opportunity to receive confidential written material from this attorney. Especially in this case alleging rape of a minor. Counsel is aware of no reason to believe that Davis’ transfer to the Bell facility will have any “ripple” impact on other inmates.

In sum, prison officials may open mail which is clearly marked “legal mail” to inspect it for contraband, if the mail is opened in the presence of the inmate. *Wolff, supra*, 577. The Court reasoned that the inmate's presence when the mail was opened and inspected would ensure that prison officials would not read the mail, and thus censorship and confidentiality concerns would not be implicated. *Id.*; *see also id.* at 580 (Marshall, J., concurring) (opening legal mail in presence of inmate protects

inmate's first amendment right not to have mail read by prison officials). See *Marquez v. Miranda*, 12 F.3d 1107 (9th Cir. 1993) (confidential correspondence “means that the correspondence shall not be read by any employee” but may be inspected for contraband).

BOC would be hard pressed to conjure a legitimate penologically reason to require an attorney to send client mail through a BOC email address. Sending Davis’ written material; correspondence; or even this motion; as suggested by the BOC employee fails the *Turner* test. This practice would eviscerate Davis’ right to attorney-client confidentiality. The consequence is that Davis’ counsel dares not send correspondence or written material to Davis with any confidence that it would not be read by BOC employee(s). *It is axiomatic that there can be no trial preparation, strategizing or even discussion of the evidence under this circumstance.*

B. Attorney-client visitations by video and telephonic must be confidential.

It is axiomatic that Davis’ oral communications with his attorney by videoconferencing or by telephone must be confidential. Davis’ *right to access to the court* is denied if he is not allowed to privately communicate with his attorney.

In *Ching v. Lewis*, 895 F.2d 608, 610 (9th Cir.1990) the court held that the *right of access to the courts includes contact attorney visitation. Casey v. Lewis*, 4 F.3d 1516, 1520 (9th Cir. 1993) An inmate's ability to communicate with his lawyer is protected by the constitutional right of access to the courts and may implicate the Sixth Amendment right to assistance of counsel in criminal proceedings. See

Aswegan v. Henry, 981 F.2d 313 (8th Cir. 1992) (analyzing telephone use as an access-to-courts issue); *See also Richardson v. Superintendent Coal Twp. SCI*, 905 F.3d 750, 764 (3d Cir. 2018) (“The Supreme Court has recognized that the Sixth Amendment guarantees a ‘right to counsel at all critical stages of the criminal process.’”) Thus, any practice that permits monitoring (or eavesdropping intentionally or inadvertently) of a defendants’ phone calls with his attorney must be reasonably related to a legitimate penological interest in order to be valid. *See Turner v. Safley*, 482 U.S. 78, 89 (1987).

Corrections officials are not free to engage in practices that unreasonably deny an inmate unmonitored access to his attorney because “[r]egulations and practices that unjustifiably obstruct such access are invalid.” *Ruiz v. Estelle*, 679 F.2d 1115, 1153 (5th Cir.) (1982).

Davis’ conferences and telephonic communications with Counsel are governed by BOC policies, procedures and practices. However, it is clear that the St. Thomas jail and St. Croix detention facility have very different approaches for accommodating attorney-client contact.

Here, the question is whether it reasonable when ab attorney-client communications may be overheard by a BOC employee(s) quietly standing close to the door or within earshot of a video conference or telephone conversation. The answer is no.⁵

⁵ See Counsel’s Declaration ¶¶ 19-22

The Bell facility has an interview room, with a metal door and pass through, that is specifically designed for attorney client-contact. The St. Thomas jail does not appear to have the same. At least with respect to the area where Davis has been directed to use to communicate with his attorney by phone and video. While on Zoom counsel could hear others talking *outside the room*; an employee was very likely intentionally listening to Davis conference with counsel and appeared to quickly move from the door when it was unexpectedly opened by Davis. Additionally, there is at least one camera-like monitoring device located in a corner of the room near the ceiling as would be used to videotape interviews.

The U.S. Supreme Court in *Turner* identified four factors relevant in determining the reasonableness of corrections practices:

- (1) whether there is a valid, rational connection between the prison policy and the legitimate governmental interest put forward to justify it;
- (2) whether there are alternative means of exercising the right;
- (3) the impact that accommodation of the constitutional right will have on guards, on other inmates, or on the allocation of prison resources; and
- (4) whether the regulation or policy is an “exaggerated response” to prison concerns.

482 U.S. at 89–90.

Davis has the burden to show that the challenged regulation or practice is unreasonable under *Turner*. *Casey v. Lewis*, 4 F.3d 1516, 1520 (9th Cir. 1993) But BOC must show that the impediment (location for attorney-client communication) to the Davis right of access to the courts (counsel) is reasonable.

A correctional institution's interest in a safe and secure operations must be balanced with an inmate's expectation of engaging in private communication with his

counsel. *Simon v. Mullgrav*, 2018 WL 4562767, at *9 (V.I. Super. Ct. Sept. 19, 2018) citing *United States v. Sababu*, 891 F.2d 1308, 1329-30 (7th Cir. 1989).

It is not Davis' burden to show that there is no legitimate penological interest. See Fontroy v. Beard, 559 F.3d 173, 177 (3d Cir. 2009) (edifying that although inmates bear the ultimate burden of showing that the irritating policy is unconstitutional, it is the officials' burden to demonstrate that a rational connection exists between the policy and a legitimate penological interest); See also *Monroe v. Beard*, 536 F.3d 198, 207 (3d Cir. 2008) (stating that the party challenging the regulation bears the burden of showing that it is unreasonable, but the prison must come forward with a legitimate interest justifying the regulation). *Simon v. Mullgrav*, 2021 WL 1519508, at *11 (D.V.I. Apr. 16, 2021); *Richardson v. Superintendent Coal Twp. SCI*, 905 F.3d 750, 764 (3d Cir. 2018) (the Supreme Court has recognized that the Sixth Amendment guarantees a "right to counsel at all critical stages of the criminal process."), quoting *Iowa v. Tovar*, 541 U.S. 77, 80-81, (2004). Thus, any practice that permits monitoring (even inadvertently) of a defendant's phone calls with his attorney must be reasonably related to a legitimate penological interest in order to be valid. See *Turner v. Safley*, 482 U.S. 78, 89, 107 S. Ct. 2254, 96 L. Ed. 2d 64 (1987))

Thus, the practice of compelling Davis to communicate with Counsel where others may hear his side of the conversation (or hear both sides because Zoom conference is on speaker) must be related to a legitimate penological interest. A BOC employee eavesdropping through the door has no legitimate penological justification. Here it appears that the St. Thomas jail's impediment may be, in part, not related to

the prurient interest of a corrections employee, but is also related to the building structure and floor plan. Instead of building another inmate interview room it may be more economical and practical to simply transfer Davis to a facility that is closer to constitutionally appropriate.

C. The First and Sixth Amendments are implicated when client's oral communication is curtailed and or monitored.

Because of where he has to use the telephone and videoconference Davis cannot make wholly unmonitored telephone calls or videoconferences. This situation raises First Amendment and Sixth Amendment concerns.

Davis has a *legitimate expectation of privacy* in his calls and conferences with Counsel. *Katz v. United States*, 389 U.S. 347 (1967). The Sixth Amendment provides inmates with the opportunity to seek and receive the assistance of counsel. *Corraspe v. People of the Virgin Islands*, 53 V.I. 470, 485 (V.I. 2010). This right to counsel encompasses the right to effective assistance of counsel. *Id.*

“[P]rivate communication with an attorney is a meaningful part of [defendant preparing his defense] and the privacy accorded to the attorney-client relationship must exist even in the prison context.”

Brown v. Gulash, 2009 WL 2144592, at *7.

Davis' calls to his attorneys are subject to be monitored by BOC employees who are within earshot and possibly by a video camera or camera-like monitoring device. Any practice or facility that permits such monitoring must be reasonably related to a legitimate penological interest in order to be valid.⁷ *See Turner*, 482 U.S. at 89, 107 S.Ct. 2254; *Mann v. Reynolds*, 46 F.3d 1055, 1059-60 (10th Cir. 1995) (providing that

although the Sixth Amendment does not give an inmate an unfettered right to contact with counsel prison restrictions should be justified by a valid penological purpose).

Frankly there is no reasonable penological interest in monitoring Davis's telephone calls, even if advertently, merely because of where the telephone and computer are located.

D. Retaliatory Transfer

Davis submits his transfer from Bell to the St. Thomas jail was retaliatory for his conduct with a BOC medical employee.^{6 7}

Under Virgin Islands law the BOC is administered under the supervision and direction of the Director who “shall organize the [BOC] to provide security, custody and rehabilitation of correctional inmates.” 3 V.I.C. § 373(b). In addition to granting the Director with broad authority over inmates, the Legislature also granted the Director with the authority to transfer inmates to other detention facilities pursuant to 5 V.I.C. § 4503. *Simon v. Mullgrav*, 2021 WL 1519508, at *7 (D.V.I. Apr. 16, 2021)

The United States Constitution does not permit prison officials, as agents of the government, to retaliate against a prisoner for exercising his or her constitutional rights. *See Bistran v. Levi*, 696 F.3d 352, 376 (3d Cir. 2012] (“Retaliating against a prisoner for the exercise of his constitutional rights is unconstitutional.”); *Shaw v.*

⁶ Counsel has reviewed the pertinent BOC inmate records and it appears that Davis had an unsavory incident with a male medical person, with whom there was previous animus, that led to his transfer.

⁷ Davis did not have the opportunity to defend himself against the allegations that led to his transfer because, he asserts, no charges were brought before he was unceremoniously and summarily transported to St. Thomas. He was denied due process.

Murphy, 532 U.S. 223, 229 (2001) (the constitutional rights that prisoners possess are more limited in scope than the constitutional rights held by individuals in society at large) But that limitation does not eliminate Davis' right to privacy in his own body under the Due Process Clause of the Fourteenth Amendment. He is entitled to decline to involuntarily take unnecessary medication. *Charles v. CBI Acquisitions, LLC*, 2015 WL 13894848, at *2 (V.I. Super. Ct. Jan. 14, 2015) See *Gray by Gray v. Romeo*, 697 F. Supp. 580, 586 (D.R.I. 1988) citing *Moore v. City of East Cleveland*, 431 U.S. 494, 503, (1977) (the right to control fundamental medical decisions is an aspect of the right of self-determination and personal autonomy that is "deeply rooted in this Nation's history and tradition.")

To state a *prima facie* case for an unconstitutional retaliation "[a] prisoner alleging retaliation must show (1) constitutionally protected conduct, (2) an adverse action by prison officials sufficient to deter a person of ordinary firmness from exercising his [constitutional] rights, and (3) a causal link between the exercise of his constitutional rights and the adverse action taken against him." *Mitchell v. Horn*, 318 F.3d 523, 530 (3d Cir. 2003) (internal quotations omitted) (citing *Rausser v. Horn*, 241 F.3d 330, 333 (3d Cir. 2001)). Here, a *prima facie* case exists.

If a defendant demonstrates that his or her exercise of a constitutional right was a substantial or motivating factor in the challenged decision, the burden shifts to the prison officials to prove that "they would have made the same decision absent the protected conduct for reasons reasonably related to a legitimate penological interest." *Rausser at 334*. Thus, in order to state a *prima facie* case for retaliation the

defendant must also allege facts demonstrating that the exercising of a *protected right* was a substantial or motivating factor that resulted retaliation.

Davis did not get along with the medical staff because of attempts to medicate him. Davis attempted to defend himself by discouraging the staff member from forcing him to take unwanted and unnecessary medication. Self-defense is lawful. Even if not specifically found in the body of the Constitution self-defense is historically a “protected right.”⁸

Transferring Davis to St. Thomas in retaliation for an incident with the medical staff member has unconstitutionally impaired his ability to communicate with Counsel. The BOC Director knew or should have known that ordering Davis transferred to St. Thomas would adversely impact him on multiple levels to include hamstringing his access to his attorney on St. Croix.

On balance Davis is facing very serious charges that could result in years of imprisonment. Assuming the BOC medical employee is still employed at Bell the better solution would be for him to not treat or medicate Davis. BOC employees not wanting to deal with Davis does not outweigh his constitutional entitlement to effective assistance of counsel.

III. Conclusion

For the above reasons Davis respectfully moves the Court to direct the BOC

⁸ Self-defense is a basic right, recognized by many legal systems from ancient times to the present... individual self-defense is “the central component” of the Second Amendment right. *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, (2010)

Director to immediately transfer him from the St. Thomas jail to the Bell Detention facility on St. Croix.

Respectfully submitted,

ANDREW C. SIMPSON, P.C.
Attorneys for Defendant`



Dated October 4, 2022

By: Howard Phillips (VI Bar R2014)
2191 Church St., Ste. 5
Christiansted, VI 00820
(P) 340-719-3900
hphillips@coralbrief.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 4, 2022 copy of the foregoing document was served upon the party listed below via the Superior Court electronic service system:

Amie Simpson, Esq. AAG
amie.simpson@doj.vi.gov

/s/ Howard L Phillips
Howard L Phillips

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

PEOPLE OF THE VIRGIN ISLANDS,) CASE NO.: SX-2020-CR-00098
)
PLAINTIFF,)
)
V.)
)
JIMMY DAVIS,)
)
DEFENDANT.)
_____)

Wednesday, October 26, 2022
Kingshill, St. Croix

The above-entitled matter came on for a hearing held
before The Honorable Judge Douglas A. Brady,
in Courtroom Number 211, commencing at 9:03 a.m.

THIS TRANSCRIPT REPRESENTS THE PRODUCT OF AN OFFICIAL
COURT REPORTER, ENGAGED BY THE COURT, WHO HAS PERSONALLY
CERTIFIED THAT IT REPRESENTS HIS ORIGINAL NOTES AND
RECORDS OF TESTIMONY AND PROCEEDINGS OF THE CASE AS
RECORDED.

Randall Jon Belsvik, RMR, FCRR
Official Court Reporter
(340) 778-9750, Ext. 7152

APPEARANCES

1
2
3 On behalf of the Plaintiff:

4 OFFICE OF THE ATTORNEY GENERAL
5 Department of Justice
6 Office of the Attorney General
7 #213 Estate La Reine
8 6151 RR1 St. Croix
9 Christiansted, St. Croix
10 U.S. Virgin Islands 00850
11 Phone: (340) 773-0295
12 Email: Amie.Simpson@usvi.doj.com
13 BY: AMIE SIMPSON, AAG

14
15
16
17
18
19
20
21
22
23
24
25 On behalf of the Defendant:

11 LAW OFFICES OF HOWARD PHILLIPS, ANDREW SIMPSON, PC
12 2191 Church Street, Suite 5
13 Christiansted, St. Croix
14 U.S. Virgin Islands 00820
15 Phone: (340) 719-3900
16 Email: hphillips@coralbrief.com
17 By: HOWARD PHILLIPS, ESQ.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX
EXAMINATION

Witness Name	Page
JACQUELINE DAVIS	
Direct By Mr. Phillips	63
Cross By Ms. Simpson	66
NAOMI JOSEPH	
Direct By Ms. Simpson	72
Cross By Mr. Phillips	76

1 PROCEEDINGS

2 (Proceedings commence at 9:03 a.m.)

3 THE COURT: Good morning, everyone. I
4 see we have two lawyers. I saw Mr. Phillips a
5 minute ago.6 MR. PHILLIPS: Yes, I'm here, Your
7 Honor.8 THE COURT: Okay. Good. And Attorney
9 Simpson. And we have Ms. Laurencin as the clerk
10 and Mr. Belsvik as the reporter. Is Mr. Davis
11 going to be joining us, Attorney Phillips?12 MR. PHILLIPS: I thought he was, Your
13 Honor. We would actually -- the staff at the jail
14 would facilitate that, I believe.15 THE COURT: And have you communicated at
16 all with them? Are they aware of this hearing?17 MS. SIMPSON: They have -- several them
18 should be on here, Your Honor.19 THE COURT: Several of the BOC staff, you
20 mean?21 MS. SIMPSON: Yes, Your Honor. If you're
22 from BOC, would you please introduce yourself to
23 the judge?24 THE COURT: Well, let's go ahead and
25 let's call the case first, please. Could you go

1 ahead and do that, Ms. Laurencin?

2 (Pause in proceedings.)

3 Tisha, you are muted.

4 (Pause in proceedings.)

5 Whenever you're ready, Tisha, please call
6 the case.

7 (Pause in proceedings.)

8 All right. I'm not sure what the problem is.
9 Let me go off camera and try to figure out what's
10 going on.

11 MS. SIMPSON: And could one of the BOC
12 representatives see if Mr. Davis will be joining us
13 today? Thank you so much.

14 (Pause in proceedings.)

15 THE COURT: The courtroom clerk reports
16 that she hears us, but for whatever reason, I don't
17 know what the problem is, we don't hear her. She's
18 got IT coming to take a look at it. As soon as
19 that is resolved, we will continue. I guess I
20 should say, we will start.

21 (Pause in proceedings.)

22 THE COURT: Ms. Laurencin, are you there?

23 (Pause in proceedings.)

24 THE CLERK: Hi. Good morning. Can you
25 hear me?

1 MS. SIMPSON: Good morning. We can.

2 THE CLERK: Okay. Good.

3 THE COURT: Yes. Thank you, Tisha. We
4 can hear you.

5 Okay. If we're all here and accounted
6 for, can we go ahead and call the case, please?

7 THE CLERK: People of the Virgin Islands
8 versus Jimmy Davis, case number SX-2020-CR-00098.

9 MS. SIMPSON: Amy Simpson on behalf of
10 the People.

11 THE COURT: And Mr. Phillips, you're
12 muted.

13 (Pause in proceedings.)

14 I see your box there, Mr. Phillips, but I
15 don't see you in that box, and I don't hear you,
16 which tells me you're muted.

17 (Pause in proceedings.)

18 MS. SIMPSON: Judge, it looks as though
19 Mr. Davis is joining us here.

20 MR. PHILLIPS: I apologize, Your Honor.
21 He was talking on the phone when the Court --

22 THE COURT: Got you. All right. Could
23 you note your appearance, Mr. Phillips.

24 MR. PHILLIPS: Good morning, Your Honor.
25 My name is Howard Phillips. I represent Mr. Davis.

1 And his sister, Jacqueline Wathey, is also on the
2 line. And Mr. Davis is present. I'm his lawyer.

3 THE COURT: Very well. Okay. Good
4 morning, counsel. Good morning, Mr. Davis.

5 THE DEFENDANT: Good morning, Your Honor.

6 THE COURT: Okay. We're here for two
7 different matters; the first of which is the May --
8 March, 2021, renewed motion for modification of
9 conditions of release, which was originally denied,
10 was reversed and remanded, or at least remanded by
11 the Supreme Court back in the middle of last year,
12 and because Mr. Davis' representation has been
13 inconsistent and we haven't been able to meet any
14 of the rescheduled dates for this hearing, and so
15 now with Mr. Phillips' representation, here we go.

16 So, and I -- that's that first matter.
17 The second matter was filed by Mr. Phillips on
18 behalf of Mr. Davis on October 4 relating to -- or
19 it's called Jimmy Davis Emergency Motion to Return
20 to St. Croix Bell Detention Facility. We'll take
21 those matters one at a time, unless --

22 MS. SIMPSON: And, Your Honor, if I may?

23 THE COURT: You may.

24 MS. SIMPSON: I had -- Mr. Phillips -- or
25 Attorney Phillips and I have spoken extensively

1 regarding this matter, and it was his suggestion,
2 and I think it's a good one, that perhaps we could
3 start with a brief sidebar so that we are able to
4 map out the issues accurately.

5 THE COURT: Okay. That's fair. Let me
6 just see how we do that. Put everybody in the
7 waiting room, except for the three of us, is that
8 the way I do it?

9 MS. SIMPSON: Yes, Your Honor.

10 THE COURT: Okay. So I will keep --

11 THE COURT REPORTER: I assume it's an
12 off-the-record sidebar conference?

13 THE COURT: I don't know that that's
14 true, Mr. Belsvik. Let's assume for the moment it
15 will be on the record. I'm going to keep Alexa
16 Askari, my lawyer law clerk on. I'll put Mr. Adams
17 in the waiting room. BOC. Is BOC to be in the
18 waiting room also, counsel?

19 MS. SIMPSON: Your Honor, I would suggest
20 so, but I would defer to Attorney Phillips.

21 MR. PHILLIPS: Yes, Your Honor.

22 THE COURT: Okay. BOC St. Thomas put in
23 the waiting room. Mr. Hanson I will put in the
24 waiting room. Mr. Rivera I will put in the waiting
25 room. Jacqueline Wathey I will put in the waiting

1 room. Christopher Hutton is my law clerk. I'll
2 keep him with us. Amy Joseph I'll put in the
3 waiting room. Mr. Faulkner I'll put in the waiting
4 room. Tisha Laurencin, the clerk, I'll keep here.
5 And I believe that should cover everyone.

6 All right. We are now at sidebar.

7 (Start of Sidebar Conference.)

8 THE COURT: Attorneys, which one of you
9 wants to take the lead on this?

10 MR. PHILLIPS: I'll defer to Attorney
11 Simpson, Your Honor.

12 MS. SIMPSON: Thank you. So, Judge, I
13 think that what -- as far as the transfer between
14 the two facilities, I think that Attorney Phillips
15 and I agree. I personally have no opinion. I
16 don't care at which facility Mr. Davis resides.
17 But I think it's more a matter of practically what
18 we can make happen. So that is why I have asked
19 the folks from BOC to be on the line.

20 It's my understanding that his physical
21 safety --

22 THE COURT: Excuse me one second. We are
23 on the record, Mr. Belsvik, just in case; right?

24 THE COURT REPORTER: That is correct,
25 Your Honor. I am on the record.

1 THE COURT: Thank you very much. Sorry,
2 Attorney Simpson. Continue, please.

3 MS. SIMPSON: Not at all, Judge. It is
4 my understanding that there are both safety and
5 logistical concerns if there were to be such a
6 transfer. So I think that part of what needs to
7 happen today is that discussion regarding those
8 practicalities needs to be had.

9 Does that sound right, Attorney Phillips?

10 MR. PHILLIPS: Yes, Your Honor. Yes.
11 But I think that the question of whether safety
12 is -- safety from whom is my biggest issue. Is it
13 the safety regarding inmates, or is it the safety
14 regarding corrections officers at St. Croix, that
15 St. Croix facility? And that's my big concern.

16 My client advised that he was in the unit
17 in St. Croix. He would sign an affidavit saying
18 that anything that is untoward that happens if he
19 is allowed to go to St. Croix, he will sign an
20 affidavit basically relieving anybody of
21 responsibility and taking whole responsibility on
22 himself.

23 This has been an extremely unsettling
24 matter for him to be on St. Thomas, but more
25 importantly, Your Honor, I cannot represent him

1 while he's on St. Thomas. We have not even had a
2 chance to review discovery. I put in my brief -- I
3 don't need to go through all of the reasons why,
4 but there's no way that I can actively represent
5 him, effectively represent him if he's on
6 St. Thomas and I'm on St. Croix. We haven't even
7 had a chance to read the police reports, so there
8 can be no discussion regarding plea agreements or
9 anything.

10 So the question really is, with the issue
11 of safety, is it other -- safety regarding other
12 inmates, or is it safety regarding the corrections
13 officers? I see that Warden Rivera is online.
14 I've spoken to him personally. There are now two
15 investigations in -- on St. Thomas, one involving a
16 sexual situation where a police officer -- one of
17 the officers allegedly saw my client with a morning
18 erection and asked him if he could see it. My
19 client took that as an affront. But more
20 importantly, he thinks that the police officer is
21 trying to set him up to expose himself so that
22 there could then be a complaint made against him
23 for doing that.

24 The other thing that is even more
25 egregious, Your Honor, is -- I understand there's

1 a -- in my brief I wrote of -- when I was actually
2 on the phone, on the video with my client, and I --
3 and he opened the door suddenly, and I could see an
4 officer walk away from the door as if they were
5 actually listening in on the conversation, that
6 person he believes to be the same person, it's a
7 female, who has recently had some sort of physical
8 contact with him.

9 He knows and apparently everybody knows
10 she carries a knife. He's concerned that he's
11 going to have to defend himself and it's going to
12 be even more worse than the situation, if he's
13 forced to defend himself against a female officer
14 who's carrying a knife. So, and Rivera told me
15 that he's investigating both of those incidences,
16 that there are videos. I hope to get a copy of
17 those videos.

18 But St. Croix hasn't turned out to be no
19 panacea either, Your Honor, so -- I mean, I'm
20 sorry, St. Thomas. So our position, Your Honor, is
21 that he needs to be over on St. Croix. And if he
22 is allowed to go to St. Croix, I would ask the
23 court for permission to meet with him in person, as
24 opposed to over the videos which is standard, at
25 least one or twice so that I can develop a rapport

1 with my client and go over the paperwork as I would
2 any other client.

3 MS. SIMPSON: And, Your Honor, the only
4 things that I would add to that, first of all, I
5 think that both counsel and the court are aware
6 that Mr. Davis has an additional charge with regard
7 to the St. Croix facility for allegedly throwing
8 feces on a medical care provider.

9 THE COURT: Was a case ever filed? I
10 know that there was an indication it was going to
11 be filed.

12 MS. SIMPSON: Yes, Your Honor, it's
13 pending.

14 THE COURT: Do you happen to know offhand
15 what the case number?

16 MS. SIMPSON: I may be able to do that,
17 Your Honor. One moment. I think it was a 2021
18 case. One moment while I check.

19 (Pause in proceedings.)

20 Your Honor, I don't see that in front of
21 me, but I can pull that and make sure that the
22 Court has an --

23 THE COURT: All right. Well, let me just
24 see if I could find it right here. Not that it
25 matters, but --

1 MS. SIMPSON: And, Your Honor, while
2 you're looking -- and Attorney Phillips and I did
3 discuss this as well. I do not believe, and I
4 don't think Attorney Phillips believes, that
5 Mr. Davis is in any way unfit. However --

6 THE COURT: I'm sorry. When you say
7 "unfit," what do you mean by that?

8 MS. SIMPSON: As far as unfit to stand
9 trial.

10 THE COURT: I see.

11 MS. SIMPSON: However, I think it's clear
12 from everything that has happened, that assuming
13 that Mr. Davis is not released -- if he remains in
14 custody, it's clear that he needs some sort of
15 treatment to help him maybe cope with his location?
16 I'm not sure I'm saying this correctly.

17 Attorney Phillips, do you have a better
18 way of putting this?

19 MR. PHILLIPS: Well, I'm kind of agreeing
20 with you, because he definitely had problems long
21 before I came on board, and long before you came on
22 board. My client's history with the police and the
23 jail has been ongoing for, I don't know, 20, 25
24 years, or so.

25 So, but I do -- it occurred to me last

1 night that I do have a client who was recently --
2 who we anticipate will be held incompetent. And he
3 has refused medication, so -- up until now. So the
4 finding of incompetence, which I anticipate, will
5 then allow him to be put in a facility where he can
6 be treated.

7 In this instance, with regard to
8 Mr. Davis, it's my understanding the feces
9 situation was -- had to do with a medical staff
10 person who was trying to give him some sort of
11 medication. Mr. Davis is extremely suspicious of
12 people giving him medication that he doesn't think
13 he needs. So that's problematic. I think that's
14 maybe something that should be looked into.

15 There's obviously something going on,
16 some sort of medical -- mental circumstances that's
17 causing -- and maybe an examination -- but at this
18 point, I don't know if he would agree to see a
19 psychiatrist. So I think the best way is to bring
20 him back to St. Croix and let me meet with him and
21 talk with him about the way his life has gone thus
22 far and what he needs to do to go forward.

23 One of the things that I think that is
24 evident is that when we -- when I first talked to
25 him, I told him, he needs to mediate or mitigate

1 how he reacts and acts with the officers. So it's
2 my understanding that he's doing his best not to
3 cause any problems on St. Thomas because he
4 realizes that St. Croix is his carrot, basically,
5 as long as he -- so he's able to mitigate his
6 behavior if he thinks it's in his best interest.

7 I think that moving him to St. Croix, and
8 maybe even putting him in isolation if the inmates
9 are the problem, but let him stay in main -- within
10 the main unit is also possible, but at some point I
11 would like to have a good discussion with him about
12 psychological or psychiatric things that may have
13 been -- that have been long going.

14 I spoke to his sister. His sister said
15 he came out of the womb like this. He has been
16 like this recalcitrant all his life. So nothing's
17 going to be flipped. So the question is, can we
18 put him in a situation that will protect him, you
19 know, that would provide him safety and safety of
20 the corrections officers. But forcing him to take
21 medication will end up with feces.

22 And one of the other things, Your Honor,
23 right now the message to my client is, is that if
24 he acts up and throws feces at people, he will be
25 transferred. So in his mind, if he throws feces at

1 somebody in St. Thomas, they're going to have to
2 transfer him back to St. Croix.

3 So it's a very, I don't know, dicey
4 situation, but I think that's if we can move him to
5 St. Croix and let him develop an attorney-client
6 relationship. I told Attorney Simpson that I think
7 it's in everyone's best interest if I can meet with
8 my client and develop an attorney-client
9 relationship where he can trust me and trust my
10 recommendations.

11 And I've had clients with brain specks
12 and there's brain injury. There's all kind of
13 situations. I don't know if it was Fetal Alcohol
14 Syndrome. I don't know if any of those things have
15 been explored with him, but he's not going to be
16 amenable to that in St. Thomas where he's only able
17 to communicate with me online, and there's cameras
18 in the room and people are lurking around to hear
19 what he has to say. And his mail is seen, gone
20 through. That's not a situation that will engender
21 trust in the attorney-client relationship. And I
22 think that his constitutional rights are really
23 being affected by me not being able to meet him.

24 MS. SIMPSON: And for the purposes of
25 this discussion, I would agree with everything

1 Attorney Phillips has said. So I guess for this
2 particular portion of what we're doing today, I'm
3 not sure that we need necessarily a formal
4 adversarial hearing, so much as if -- perhaps Your
5 Honor would be willing to inquire of the BOC
6 personnel about -- and again, I actually do believe
7 that it's really very important in order to move
8 this case along and get a resolution that Attorney
9 Phillips be able to speak with Mr. Davis directly.

10 So if the consensus is that this is
11 something that should happen, then I think that we
12 need to get the BOC folks on record regarding their
13 position and also regarding what the practical
14 concerns are.

15 THE COURT: Okay. First of all, my
16 review of the Case Management System electronically
17 does not reveal any new case concerning an incident
18 in St. Croix. It does reveal a new case in
19 St. Thomas, case number 054 of 2022, alleging First
20 Degree Arson, among other offenses, which occurred
21 at BOC. So I don't --

22 MS. SIMPSON: I'm unaware of that case,
23 Your Honor. I will get that information.

24 MR. PHILLIPS: I am not aware of it.

25 THE COURT: All right. And that's

1 assigned to Judge Mackay. As I said, Attorney
2 Simpson, I -- there's a second representation I've
3 heard from your office that a case has been filed
4 in regard to the St. Croix incident, but as of
5 right now, I do not see it in the record.

6 This is not a ruling, but let me just
7 take a moment to agree with the two of you that
8 I -- that certainly Mr. Davis is entitled to
9 representation under the U.S. Constitution and the
10 Revised Organic Act, and that that representation
11 requires that he have the right to confidential
12 communications with his attorney in a setting
13 that's free from eavesdroppers, or any other set of
14 circumstances that make effective communication
15 between lawyer and client such that the
16 representation becomes ineffective.

17 Having said that, I am loathed to try to
18 micromanage BOC's custody of any detainee or inmate
19 and BOC to the extent that constitutional
20 protections can be provided, and they must
21 absolutely be provided or, you know, certainly the
22 Court does have to step in, but to the extent that
23 those are provided, then I don't want to -- I don't
24 want to -- not to say I would not, and I don't know
25 what the case law says frankly, but I would rather

1 allow BOC to make the decisions as to where the
2 institution, the staff, all of the employees of
3 BOC, the other residents at BOC and the facilities
4 and the -- the institution at large, how those are
5 best served by -- in implementing its custody of
6 this inmate, or this detainee, and any other inmate
7 or detainee.

8 But having said that -- and along those
9 lines, certainly at a bare minimum, confidential
10 communications by Zoom, and/or by telephone, and/or
11 by email, and/or by written correspondence, all of
12 those are something, as far as I am aware, that are
13 constitutionally required to be provided.

14 Further, if BOC says that because the
15 circumstances of the detention have had issues and
16 St. Croix is not going to work, I certainly have no
17 problem whatsoever with buying Mister -- or having
18 the court provide Mr. Phillips with a plane ticket,
19 a round-trip plane ticket back and forth to
20 St. Thomas. Obviously, it's going to cost a lot
21 more than just the plane ticket, because it's going
22 to require you spend many more hours than he would
23 be able to spend if he were able to see Mr. Davis
24 face-to-face in St. Croix. If it were necessary to
25 see him over a period of more than one day, then

1 providing accommodations on St. Thomas is another
2 possibility.

3 But it sound like both of you are -- both
4 of you have said that you're of the same mindset,
5 so -- and I -- if we need to or should get BOC on
6 the record right now, we can do that. If the two
7 of you are able to confer with each other and with
8 BOC on a -- not on the record, such as we are
9 today, and try to figure out what can work and what
10 can make sense, then I would be pleased, and would
11 recommend actually, that we defer any action on the
12 second of these motions pending those discussions.

13 What's your -- it's your motion,
14 Mr. Phillips. What's your thought on that?

15 MR. PHILLIPS: Your Honor, it's -- I
16 guess my thought, I'm relying on my client's
17 representations to me, and quite frankly he doesn't
18 think that he can make bail. He knows that he
19 won't be able to make bail. Part or whatever the
20 court sets -- he's been incarcerated most of his
21 life. He has no job. He has no money to make cash
22 bail. And I don't think anyone's willing to put up
23 any property. So he's not very enthusiastic about
24 making bail.

25 As far as -- like I spoke with his sister

1 about electronic home monitoring. She doesn't have
2 a phone, a landline that would accommodate that.
3 So I don't know if electronic monitoring is
4 something that would be easy for him. So it's a
5 real issue for Mr. Davis moving to St. Croix. He
6 doesn't think he's going to be released, but he
7 does think that maybe being moved to St. Croix will
8 ameliorate some of the anxiety he's feeling about
9 his incarceration at this time, at least if he can
10 meet with me and talk with me about his case.

11 THE COURT: All right. Well,
12 Mr. Phillips, you have not yet, I assume, heard the
13 perspective of BOC, so that's what I'm trying to
14 encourage, that before we go ahead and have a
15 hearing on this thing, which we're able and ready
16 to do this morning, but if the two of you are able
17 to communicate with each other, and as necessary
18 with BOC, and of course Mr. Phillips you with
19 Mr. Davis as well, to the extent that that will
20 give you a broader view of all of the circumstances
21 and all of the considerations that are at play,
22 then maybe we'd all be better served.

23 Are you amenable to that, Mr. Phillips,
24 or do you need --

25 MR. PHILLIPS: I'm amenable to that, Your

1 Honor. I don't know how Mr. Davis would respond.

2 THE COURT: Well, I mean, you know, it's
3 my ruling, so he can just be mad at me again.

4 MS. SIMPSON: May I make a suggestion?
5 So I -- first of all, given what Mr. Phillips has
6 said, I don't know that having a release hearing is
7 necessarily in the best interest of anyone at this
8 time judicial economy-wise. So perhaps that's --

9 THE COURT: I'm sorry. Excuse me. When
10 you say a "release hearing," you're talking about
11 motion number 2, the transfer back to St. Croix?

12 MS. SIMPSON: Correct.

13 THE COURT: Okay. Go ahead.

14 MS. SIMPSON: Regardless of what Your
15 Honor rules, I think Attorney Phillips is correct,
16 and I think that there will have to be some sort of
17 monetary bail, and clearly Mr. Davis cannot meet
18 that. However, it is important to I think everyone
19 here that Mr. Davis feels that he is in this
20 conversation as much as he can be and that he is
21 treated with respect.

22 So I would suggest that perhaps we can
23 get on the record and explain the situation as it
24 stands, and that efforts are being made to discuss
25 with BOC what may be done as far as ameliorating

1 his situation, so that he is aware of everything
2 that's going on.

3 MR. PHILLIPS: I agree, Your Honor.

4 THE COURT: All right. So we'll go
5 back -- we are on the record, of course, but we'll
6 go back and bring in all of the -- at least
7 Mr. Davis. Should we bring in everybody? Is there
8 any reason not to bring in everybody?

9 MS. SIMPSON: I see no reason not to
10 bring in everybody.

11 THE COURT: Okay. So we'll just bring in
12 everybody and we will just advise Mr. Davis that as
13 to the hearing on the motion to return him to
14 St. Croix, that's going to be deferred to allow the
15 attorneys to confer with each other and with BOC
16 officials, so that Mr. Phillips has a complete
17 perspective of what the other side of the story is.

18 And as necessary, if there's no ability
19 to come to an understanding that makes sense for
20 both sides, and I expect that Mr. Davis will
21 maintain his motion to return to St. Croix, then
22 we'll -- we can go ahead and schedule that, and I
23 will make sure we schedule it within the next -- I
24 don't have a day offhand, but certainly within the
25 next -- today is the 26th, so I'd say within the

1 next three weeks or so we can do that.

2 MR. PHILLIPS: Your Honor, that was my
3 thought. We were speaking. It cannot be an
4 open-ended situation. It would have to be -- I
5 believe it's important to give Mr. Davis a date of
6 when -- so there be would be some resolution with
7 that issue.

8 And the closer the date, the better. It
9 doesn't have to be an extended hearing or anything,
10 because we would have worked out the mechanics of
11 whether he can be moved or not. And so it doesn't
12 have to be an extended hearing, but I think a
13 closed-ended situation would be better than an
14 open-ended situation.

15 THE COURT: It looks like we could
16 probably do it on November 13 or 14. I'm not sure
17 if the 13th is a holiday.

18 MS. SIMPSON: It is. Your Honor, I would
19 just note for the Court that that is our five
20 defendant jury trial.

21 THE COURT: Oh, yeah. Oh, yeah, that
22 one.

23 MS. SIMPSON: And again, I think
24 Mr. Phillips is correct, I don't think that this is
25 going to be an extended hearing. I also still am

1 not 100 percent -- we're in discussions with the
2 defense on that case. I'm not 100 percent that
3 it's going to go. But either way, I just wanted to
4 make sure the Court was aware.

5 THE COURT: Yeah. I mean, I don't -- I
6 mean, Mr. Davis obviously has been -- had dates
7 bumped back, and bumped back, and bumped back, and
8 bumped back, most of which are because he's not
9 been able to keep a lawyer. But I don't want to
10 exacerbate that problem by setting a date and,
11 oops, we got a jury trial, sorry, we can't do that.

12 I believe on -- the date I show here is
13 November 29. Whatever it is, I will need to
14 confirm I'm sure, but --

15 MR. PHILLIPS: Your Honor, if the date is
16 that far off, I think that it maybe wise today to
17 have BOC do represent in court today something
18 about what their position is, because it would
19 really cause problems for a date that far off.

20 THE COURT: Okay. All right. And
21 Attorney Simpson you say you don't have a concern
22 one way or the other, so you're not advocating --
23 you haven't filed an opposition to the motion. And
24 does BOC have counsel in this situation?

25 MS. SIMPSON: So, Your Honor, I did reach

1 out to BOC counsel, and I'm very, very sad to
2 report that he has apparently moved on to another
3 position, and that BOC has not currently filled
4 that position. I do believe they have a position
5 on the matter, and I do not mind them expressing it
6 on the record, but --

7 THE COURT: Would that be Warden Rivera?

8 MS. SIMPSON: That would be -- so we've
9 got Warden Rivera, Warden Adams, and a gentleman
10 named Riel. I'm sorry I forget his last name at
11 the moment. But he is I believe the second in
12 command to Director Testamark, and I believe that
13 he's the one who would be expressing their
14 position.

15 THE COURT: Okay. All right. So we'll
16 go ahead and we'll hear BOC on the record. I would
17 expect then that what I will do is maybe put
18 counsel on a short leash and give you perhaps seven
19 days or something along those lines to confer and
20 to see if you, together with Mr. Davis and together
21 with BOC, can come up with a resolution that makes
22 sense to everyone, failing which I'll go ahead and
23 rule on that particular motion.

24 MS. SIMPSON: Your Honor, I have no
25 problem with that timeframe.

1 THE COURT: Very well.

2 MR. PHILLIPS: (Inaudible.)

3 THE COURT: Okay. All right. So we'll
4 go ahead right now and bring everybody back in.

5 MR. PHILLIPS: Thank you, Your Honor.

6 (End of Sidebar Conference.)

7 THE COURT: Okay. Good morning again,
8 everyone. We were just having that discussion
9 with -- I was just having that discussion with the
10 lawyers to understand what the positions are and
11 the concerns are regarding the second of the two
12 motions that are before us today, and that is the
13 emergency motion to return Mr. Davis to St. Croix.

14 Attorney Simpson has explained that --
15 and I don't want to put any words in her mouth, but
16 she's stated it on the record, and just for
17 everybody else's edification, I'll state what I
18 understand the People's position to be, and she can
19 correct me if I misspeak, but that the People do
20 not have a position one way or the other on the
21 motion. The People have not filed any opposition
22 to the motion. But the People, and certainly the
23 Court, will not act without hearing the other side
24 of the story beyond what has been presented by
25 Mr. Phillips on behalf of Mr. Davis.

1 I understand from Attorney Simpson that
2 BOC does not have counsel presently, and that may
3 also be a factor that needs to be considered. But
4 the one thing that I can tell everyone, both --
5 including Mr. Davis and including BOC, is that
6 Mr. Phillips' motion is correct to the extent that
7 he states that Mr. Davis has a right under the
8 United States Constitution and the Virgin
9 Islands Revised --

10 MR. PHILLIPS: I'm sorry, Your Honor.
11 I'm sorry, Your Honor. Mr. Davis said he can't
12 hear the Court. There must be something wrong. I
13 apologize, Your Honor, but he can't hear. He
14 said --

15 THE COURT: No problem.

16 (Overlapping speakers.)

17 MR. PHILLIPS: Can you hear me? He still
18 can't hear.

19 THE COURT: Mr. Davis, if you can hear,
20 raise your hand, please. Okay. I assume there's
21 somebody else on from BOC St. Thomas so we can take
22 a look?

23 MR. PHILLIPS: I understand. I got it.
24 I got it.

25 (Pause in proceedings.)

1 THE COURT: Well, these remote hearings
2 are great, aren't they? All of you don't have to
3 travel to Kingshill, St. Croix to have this
4 hearing, but at the same time here we are dealing
5 with technical glitches. Okay. Perhaps they are
6 going to rejoin the meeting.

7 (Pause in proceedings.)

8 THE WARDEN: Or they're going to restart
9 it at this time, the system, to see if it picks up.

10 THE COURT: All right. Thank you,
11 Warden.

12 (Pause in proceedings.)

13 All right. Mr. Davis, can you hear me
14 now, sir?

15 THE DEFENDANT: (Indicating thumbs up.)

16 THE COURT: Okay.

17 MR. PHILLIPS: Good.

18 THE COURT: All right. I was just saying
19 that we're going to hear from BOC to allow
20 Mr. Davis and Mr. Phillips to hear the other side
21 of the request, that is the -- to the extent that
22 there's any opposition, I've just said the People
23 do not oppose it, but BOC may have it's own
24 thoughts.

25 What I will say, and started to say a

1 minute ago, is that Mr. Phillips in his moving
2 paper is correct, that Mr. Davis has a right under
3 the United States Constitution and the Revised
4 Organic Act to be effectively represented by
5 counsel. That requires at the very least that
6 Mr. Davis have an opportunity to effectively and
7 confidentially communicate with his attorney
8 without -- including in-person, and we can deal
9 with that, how we figure out to make that work, if
10 and when that need arises, but otherwise both by
11 mail, that is snail-mail, and by electronic mail,
12 and by videoconference or Zoom, or whatever the
13 media is -- medium is, and by telephone.

14 Mr. Davis has the right to have in-person
15 communications, that is direct communications with
16 his lawyer, without BOC personnel eavesdropping on
17 the conferences or the calls or monitoring in a
18 manner that jeopardizes the communications. So
19 that fine line may need to be drawn as to how are
20 concerns for personal and institutional safety
21 preserved without infringing Mr. Davis'
22 constitutional rights to communicate confidentially
23 with his lawyer.

24 All right. Having said all of that,
25 since the People have indicated -- let me just

1 start this way: Those of you folks who are from
2 BOC, could I ask you to identify yourselves,
3 please, your name and your position?

4 MR. FAULKNER: Yes. My name is Riel
5 Faulkner, Judge, and I am the Assistant Director
6 for Administration and Compliance with the Bureau
7 of Corrections.

8 THE COURT: Thank you, Mr. Faulkner. How
9 do you spell your first name?

10 MR. FAULKNER: R-I-E-L.

11 THE COURT: Okay. And did you say you're
12 Assistant Director --

13 MR. FAULKNER: Director, right, for
14 Administration and Compliance with the Bureau of
15 Corrections. And I'll allow the other members of
16 the BOC team to identify themselves to the Court.

17 THE COURT: Thank you.

18 WARDEN ADAMS: Ben Adams, warden at John
19 A. Bell Correction Facility in St. Croix.

20 THE COURT: Warden Adams, thank you.

21 WARDEN ADAMS: Yes, sir.

22 WARDEN RIVERA: Hector Rivera, warden
23 over at the CJC St. Thomas.

24 THE COURT: Warden Rivera. Good morning.
25 What's your first name, Warden Rivera?

1 WARDEN RIVERA: Hector.

2 MR. HANSON: Good morning, Your Honor.
3 Edward Hanson, Assistant Director over operations.

4 THE COURT: Mr. Hanson.

5 Okay. I don't know if you folks, BOC
6 persons have had an opportunity to -- and excuse me
7 for a second. Is that sergeant -- is it Sergeant
8 or Lieutenant Joseph? Because you're not with BOC,
9 you're with VIPD; correct?

10 MS. JOSEPH: I am with VIPD.

11 THE COURT: So you're not involved in
12 this aspect of things; correct?

13 MS. JOSEPH: No, I'm not.

14 THE COURT: Okay. Thank you. If you
15 gentlemen from BOC have had a chance to confer on
16 this or not, but if one of you would want to be a
17 spokesperson for BOC and perhaps respond to the
18 request of -- or the motion filed by Mr. Phillips,
19 that is to require BOC to return Mr. Davis to
20 St. Croix.

21 MR. FAULKNER: Yes, Your Honor. This is
22 Riel Faulkner, Assistant Director for
23 Administration and Compliance at the bureau. We
24 have reviewed his request and his motion, and our
25 position is as follows: Mr. Davis was transferred

1 from St. Croix to St. Thomas out of the bureau's
2 legitimate concern for his safety, as well as the
3 safety and well-being of the facility and other
4 inmates at the facility.

5 Mr. Davis' disruptive, unruly behavior at
6 John Bell created a situation that made his
7 continued presence there a risk to himself. We
8 have taken all appropriate measures to ensure his
9 safety at the St. Thomas jail, also known as CJC.

10 And regarding his access to attorney, our
11 mail policy expressly forbids any BOC employee from
12 opening legal mail to an inmate from his attorney
13 or from the court. And so we have considerable
14 procedures in place to ensure that inmates and
15 detainees at our facility on both islands,
16 St. Thomas and St. Croix, receive their legal mail
17 unencumbered and untouched from any BOC employee.

18 So it's unfortunate that the employee
19 that Attorney Phillips spoke to miscommunicated --
20 or misspoke, but we most certainly do not open any
21 inmate mail and we certainly provide them
22 unrestricted access to their attorney once
23 reasonable accommodations are made.

24 THE COURT: And elaborate on that, if you
25 would, please? For example, if -- is there an

1 opportunity to have a Zoom call, similar to what
2 we're having, but just one-on-one between lawyer
3 and client?

4 MR. FAULKNER: Yes, sir, there is most
5 certainly an opportunity for a Zoom call.

6 THE COURT: And is that -- can that be
7 accomplished without BOC personnel in the room with
8 Mr. Davis?

9 MR. Person: BOC personnel are not
10 permitted to be in the room when he has a call with
11 his attorney. They will remain at a safe distance
12 outside, outside of earshot to ensure their
13 security and safety. But a bear in mind too, Your
14 Honor, because of his outbursts and disruptive
15 behavior, Mr. Davis is on lockdown and he cannot be
16 allowed free access throughout the facility. He
17 must be escorted in leg irons and chains to get to
18 where he needs to go.

19 THE COURT: Okay. Which is a different
20 question, but the primary concern is that when he
21 gets to where he has to go, then he has the
22 opportunity to have private, confidential
23 communications with his attorney.

24 You also saw I'm sure, Mr. Faulkner,
25 the -- Assistant Director Faulkner, the allegation,

1 or at least the concern, or at least the suspicion
2 that there was eavesdropping on communications,
3 somebody was outside the door. So clearly that is
4 something that is inappropriate, and if -- whatever
5 the circumstances with Mr. Davis going forward are
6 going to be, I would need BOC's assurances that
7 that kind of -- not to say that that's something
8 that BOC concurs or agrees that actually did
9 happen, but BOC needs to indicate that that will
10 not happen in the future.

11 MR. FAULKNER: I can make those
12 assurances, Your Honor, that that will not happen.
13 I have no knowledge that it actually did happen.
14 But our policy and our -- the access that we give
15 to inmates and detainees to their attorneys is
16 sacrosanct, and we do not allow any BOC employee to
17 eavesdrop or monitor any conversation between a
18 detainee and his counsel.

19 THE COURT: Does that also apply to
20 in-person contacts with attorneys?

21 MR. FAULKNER: Yes, sir. We have a room
22 where attorneys have in the past been able to meet
23 with their clients with complete privacy and
24 confidentiality where they're able to go over
25 whatever needs to be discussed. Since the COVID

1 pandemic, that has been scaled back, but we're in
2 the process of reopening our facilities to allow
3 those in-person attorney-client communications and
4 conversations to resume.

5 THE COURT: All right. Well, that-- I
6 mean, I know that the Department of Health has
7 rescinded all of its COVID protocols, so I don't
8 believe in a facility such as BOC there are health
9 protocols that would prevent those kinds of
10 physical contacts one-on-one. Other issues of
11 BOC's operations and safety are something
12 different.

13 But is that type of -- and I'm going
14 forward based on what you just said, Mr. Faulkner.
15 I would expect that to the extent that Mr. Phillips
16 and Mr. Davis seek an opportunity to communicate
17 with each other in person, that those -- that can
18 be accommodated, notwithstanding the fact that
19 Mr. Davis is on lockdown and requiring a different
20 kind of treatment than if he were detained under a
21 normal set of circumstances.

22 MR. FAULKNER: Yes. I can tell you, Your
23 Honor, that the Bureau will make all reasonable
24 accommodations to Attorney Phillips to meet
25 in-person with his client, as long as the security

1 and safety precautions are followed.

2 THE COURT: Okay. I see Mr. Davis is
3 raising his hand. Mr. Phillips, do you want to --
4 I don't know if there's a means by which you and he
5 can chat with each other?

6 MR. PHILLIPS: I don't believe so, Your
7 Honor, at this point, but he does have a question.

8 THE COURT: Well, do you want to allow
9 him to ask that question ?

10 MR. PHILLIPS: Yes, Your Honor.

11 THE COURT: All right. Go ahead,
12 Mr. Davis.

13 THE DEFENDANT: Good morning again.

14 THE COURT: Good morning.

15 THE DEFENDANT: Your Honor, this
16 gentleman that just be spoken, which is Assistant
17 Director, he just fabricate and say I'm locked
18 down. I'm not locked down. Your Honor,
19 (inaudible) St. Croix (inaudible) to move to
20 St. Thomas; right? I sign a affidavit. I will
21 sign a agreement that my life is not in jeopardy in
22 St. Croix.

23 THE COURT: Okay. All right. All right.
24 Okay. Thank you, Mr. Davis.

25 THE DEFENDANT: Okay.

1 THE COURT: That's good. All right. And
2 then, Mr. Faulkner and/or others, what is your --
3 or do you have a current position about whether or
4 not Mr. Davis should be permitted to return to
5 St. Croix?

6 MR. FAULKNER: All right. Your Honor,
7 I'm going to defer to our wardens. I have Warden
8 Ben Adams on St. Croix, and I also have Warden
9 Hector Rivera here, as well as our Assistant
10 Director for Operations, Mr. Edward Hanson, who can
11 talk about more specifically about the security
12 aspects and concerns.

13 THE COURT: Okay. Let me -- before we do
14 that, let me just ask the attorneys, is this
15 something we should pursue right now or would
16 counsel like to have the opportunity to confer off
17 the record with both the -- both wardens, or
18 especially I suppose Warden Adams, to determine
19 whether or not accommodations can be made?

20 Mr. Phillips, what's your pleasure there?

21 MR. PHILLIPS: Your Honor, as we were
22 speaking earlier, I think it's important that we do
23 be able to confer with the staff, BOC staff or
24 administrator. But my -- I have just a short
25 question that I need a quick clarification on that

1 would then open up the discussion later on:

2 When Assistant Director Faulkner
3 mentioned, I put in quotes, that the concern is his
4 safety - that is, my client's safety - well, is it
5 concern for my client's safety with the inmates or
6 concern with my client's safety with the
7 corrections officers? If it's my client's safety
8 with the inmates, they do have -- they do have
9 situations where the client can be put in
10 administrative segregation to keep him from being
11 harmed by inmates.

12 However, and it's my suspicion, that the
13 concern for his safety has to the potential conduct
14 of corrections officers who would want to harm him.
15 If that's the case, then BOC needs to really reign
16 it in and cannot say they're concerned with my
17 client's safety because of their own employees,
18 because their own employees are wholly within their
19 control.

20 If there've been no instances with my
21 client -- and it's my understanding he was in the
22 unit back in St. Croix, he was in the unit. This
23 arose out of a situation with staff. So if the
24 situation involves staff, then BOC has the duty to
25 control its staff, because my client's right to

1 a -- constitutional right to an attorney outweighs
2 any staff's anger or just being upset with my
3 client. That staff member has to be in control, be
4 the person in control, and my client cannot be
5 punished.

6 That was totally untoward, the situation
7 with the feces, I understand. But that had to do
8 with an officer, or an employee of the BOC, not
9 with another inmate. So my question is, even for
10 the discussions that we're going to have later is,
11 is the concern for my client's safety regarding
12 other inmates or is it because there's a concern
13 that officers are going to do something to hurt
14 him, or compel him to defend himself so then he's
15 then in deeper trouble than he is right now?

16 So if it is, in fact -- the concern for
17 his safety has to do with corrections officers,
18 that carries no weight in my eye, because his
19 constitutional right to counsel outweighs any
20 concerns, because corrections officers are trained.
21 It is their duty and responsibility to be
22 responsible for my client's safety. He's not
23 responsible for their safety. It's the BOC's
24 responsibility to make sure my client is put in a
25 safe situation.

1 So that's my biggest concern right now,
2 Your Honor, is they say his safety. His safety
3 from whom?

4 THE COURT: Okay. Assistant Director
5 Faulkner, do you want to talk to that, or do you
6 want to defer to the wardens?

7 MR. FAULKNER: Let me speak (inaudible),
8 and then I'll -- for the specific factual
9 predicates, I'll defer to the wardens.

10 First of all, Your Honor, it is true that
11 Inmate Davis did not endear himself to our staff by
12 throwing feces on them on multiple occasions. And
13 he's done that both on St. Thomas and on St. Croix.

14 Nevertheless, my understanding is that
15 the legitimate concerns that we have for his safety
16 stem from the relationships and conflicts between
17 him and other inmates. BOC staff know what their
18 responsibilities are and they know what their job
19 duties require. And those job duties, including
20 our use of force policies, of course forbid and
21 prohibit them from in any way retaliating against
22 an inmate or a detainee.

23 Let me also say, just in general, the
24 Bureau's position is that it should be given wide
25 latitude and discretion in the way that it runs its

1 facilities and where it places the inmates between
2 St. Thomas and St. Croix in a way that facilitates
3 both safety and security.

4 And so I -- I will defer to the wardens
5 as to the specific issues will facing --
6 particularly Warden Adams, the specific issues
7 facing inmate Jimmy Davis were he to return to John
8 Bell. But the Bureau's overall position is that
9 when it comes to housing inmates, either between
10 St. Thomas or St. Croix, or an off-island facility,
11 we are given the discretion to do what is
12 necessary, of course within constitutional
13 parameters, to ensure the safety and security not
14 only of the inmate, but of the facility, fellow
15 inmates and staff. And I'll defer to Warden Adams.

16 THE COURT: Thank you, sir. Warden
17 Adams?

18 WARDEN ADAMS: Good morning.

19 THE COURT: Good morning.

20 WARDEN ADAMS: It is my understanding
21 that this has nothing to do -- not in addressing
22 anything that Attorney Phillips said earlier, this
23 has nothing to do with Mr. Davis throwing feces on
24 staff, or anything like that.

25 I was in St. Thomas when Mr. Davis was

1 brought over to St. Thomas from St. Croix. And the
2 concerns then was not about staff; it was about the
3 retaliatory actions based from his actions from
4 other inmates. That stands today, as there's
5 information, credible information, which I don't
6 want to go into and jeopardize the security of this
7 facility, that there is an agreement to do
8 Mr. Davis harm should he return to St. Croix, Your
9 Honor.

10 THE COURT: And what about segregation
11 from the inmate community? Has that taken place in
12 the past when he was at John Bell?

13 WARDEN ADAMS: What happened to him --
14 when he was at John Bell, I was at St. Thomas. And
15 when he came over to St. Thomas, that's where I
16 became familiar with Mr. Davis.

17 THE COURT: Would him being segregated
18 from the general inmate population alleviate those
19 concerns that you just mentioned?

20 WARDEN ADAMS: No, sir. It is my
21 understanding that it would not.

22 THE COURT: And just to the extent you're
23 able to elaborate, that's because there's no manner
24 of segregation that can be complete, there's always
25 going to be some type of times when even a

1 segregated inmate comes in contact with the general
2 population?

3 WARDEN ADAMS: Not necessarily the
4 general population, Your Honor, but other
5 segregated inmates within the facilities, and those
6 inmates that occupy the segregation unit at this
7 time are inmates and offenders that are out of
8 general population, if you understand what I'm
9 saying.

10 THE COURT: Okay. And those persons are
11 housed at least generally in an area where the
12 potential for contact can't be avoided, is that
13 what you're saying?

14 WARDEN ADAMS: Yes, sir.

15 THE COURT: Okay.

16 MR. PHILLIPS: Briefly, Your Honor, I
17 have reviewed 943 pages of BOC records from my
18 client. I have not seen one incident in the record
19 of where my client had any problem with an inmate.

20 Moreover, I have a client, Mr. Hector
21 Mercado, who has been found incompetent, and
22 because of his refusal to adhere to get medicated,
23 the psychiatrist reports that he has been in
24 segregation, isolated for ten years. So it's
25 really difficult for me to understand that a person

1 cannot be segregated and kept safe. He has been
2 segregated and kept in isolation for ten years
3 since a psychiatric competency evaluation. We'll
4 be dealing with that issue with another judge.

5 But I think that -- my point is, 943
6 pages, I've looked at every single page, and not
7 one incident involved an inmate. The only
8 incidents I've seen that -- especially today,
9 involves police -- or corrections officers.

10 If my client -- finally, if my client was
11 allowed to turn the use of -- move the computer
12 that he is looking -- that he's using right now, if
13 you turn it up to the corner, you will see a camera
14 up in that corner. I don't know if the camera is
15 live or not, but that's not an appropriate
16 circumstance for counsel to be meeting in-person
17 with his client. There is no way that I can meet
18 with him in that room if that's intended to be the
19 room.

20 Your Honor, I understand -- we're going
21 to have to work this out. I think Attorney Simpson
22 and I agree that there's going to have to be some
23 more discussion with BOC, but someone's going to
24 have to show me in those 943 pages where there was
25 fear of inmate retaliation as opposed to

1 corrections officers retaliation.

2 In fact, it is our position that he was
3 moved from Bell to St. Thomas in retaliation for
4 what happened with the feces. Now, if
5 counsel is -- what I've just heard is that, well,
6 he's thrown feces at St. Thomas and he's thrown
7 feces at St. Croix both, then why is he being held
8 then in St. Thomas if the same incident can occur
9 in both places?

10 So what counsel -- what the person just
11 said really doesn't really fit the facts, and it
12 definitely doesn't fit the history. And if you can
13 show me out of those 943 pages that my client has
14 been threatened by another inmate, I would
15 definitely love to see that, because I didn't see
16 that, and I went through every page.

17 MS. SIMPSON: Your Honor, if I may?

18 THE COURT: Yeah, go ahead.

19 MS. SIMPSON: Your Honor, obviously, I do
20 not represent BOC in this matter, and as I have
21 said on the record, it is certainly my priority to
22 see that Mr. Davis is able to adequately meet with
23 his counsel so that we can move this matter along
24 for everybody's sake.

25 However, what I understood Warden Adams

1 to say is that there are issues that may very well
2 not be in the documentation that Attorney Phillips
3 received, and that should not be discussed on the
4 record with regard to security concerns. And so I
5 would just ask -- and I may be familiar with some
6 of those issues. I would just ask that if those
7 issues need to be discussed, that they be discussed
8 not on the record, and that certainly Attorney
9 Phillips can speak with Warden Adams in more detail
10 in private on those issues.

11 MR. PHILLIPS: I'm willing to do that,
12 Your Honor.

13 THE COURT: All right. Here is my
14 suggestion as to how we handle this: I've already
15 expressed the concerns and the requirement that I
16 will enforce, that there be confidential, private
17 communications between attorney and client.

18 I also share a concern, as I also
19 mentioned, about meddling in the custodianship of
20 BOC over those in its charge. And to the extent
21 that it must be done, then we will do it, but I
22 don't know that we're at the point to determine
23 that that must be done.

24 When we had our, quote-unquote, sidebar
25 conference in the -- with just the lawyers, it was

1 suggested that the lawyers and BOC have the
2 opportunity to explore specific concerns that exist
3 and potential accommodations that may be acceptable
4 to both sides.

5 And now what I propose to do is to
6 require counsel to confer with each other, and as
7 necessary and appropriate to confer with BOC as
8 well, with regard to the relief that's sought by
9 this emergency motion to return Mr. Davis to John
10 A. Bell and that we have a -- to the extent that
11 there's not an agreement among or between the
12 parties, and including BOC, then we'll have a
13 hearing on this on November 9 at 11 o'clock in the
14 morning by Zoom.

15 Does that work for you, Mr. Phillips?

16 MR. PHILLIPS: Yes, Your Honor.

17 THE COURT: Attorney Simpson?

18 MS. SIMPSON: Yes, Your Honor.

19 THE COURT: Is that acceptable, Assistant
20 Director Faulkner?

21 MR. FAULKNER: Yes, Your Honor.

22 THE COURT: Is there anybody else at BOC
23 that would like to have any input given that we're
24 going to go along -- not necessarily that it's
25 Attorney Simpson's proposal, but to allow those

1 off-the-record communications to take place, to
2 maybe give Mr. Phillips a more complete perspective
3 of the considerations, and including those that
4 don't show up in the records that he's had a chance
5 to review.

6 So is there anybody else at BOC that
7 would like to say something right now?

8 MR. FAULKNER: Your Honor, if I may, just
9 for the record, Mr. Davis also has pending criminal
10 cases on St. Thomas.

11 THE COURT: I thought that he -- I saw
12 that he has one pending criminal case that relates
13 to a January, 2022, arson.

14 MR. FAULKNER: That is correct. That is
15 correct.

16 THE COURT: As far as I can tell, that's
17 the only pending charge other than this one that I
18 see that Mr. Davis has.

19 MR. FAULKNER: Yes. Thus far, yes.

20 THE COURT: Okay. Okay. If there's
21 nothing else then, I will with counsel's permission
22 excuse the folks from BOC and ask them to be
23 available to meet with counsel in such -- whatever
24 fashion works for all of you, and to be available
25 as well if needed to be present on November 9,

1 which I believe is Wednesday, at 11 o'clock in the
2 morning by Zoom.

3 MR. PHILLIPS: One other thing, Your
4 Honor?

5 THE COURT: Yes, sir.

6 MR. PHILLIPS: I'm sorry. I apologize to
7 the Court. But I believe there should be a
8 timeframe for that conference to occur. I believe
9 that was mentioned off -- when we weren't online
10 here, that it was a seven-day -- that there should
11 be a conference within the next seven days between
12 counsel and BOC.

13 THE COURT: Well, I'm going to leave --

14 MR. PHILLIPS: We really don't want to
15 drag it out.

16 THE COURT: Sure. I've got -- you know,
17 counsel are directly in front of me in this
18 particular case, and, yes, within seven days the
19 two of you need to make sure that you have your
20 plans in place. But, you know, if you can fold BOC
21 into that time frame, please do so. And otherwise
22 I want everybody ready to go with an agreement or
23 with -- to have a hearing on this on November 9 at
24 11 o'clock in the morning.

25 MR. PHILLIPS: Thank you, Your Honor.

1 THE COURT: All right. All right. And
2 with that I will excuse you gentlemen from BOC.
3 Thank you very much.

4 MR. FAULKNER: Thank you, Your Honor.

5 (Pause in proceedings.)

6 THE COURT: Okay. Should we turn our
7 attention to the other motion, please, which is the
8 long pending, renewed motion for release.

9 Attorney Phillips, that's your motion.
10 I'll hear from you, sir.

11 MR. PHILLIPS: Your Honor, we'd ask that
12 my client be released on his own recognizance.
13 Failing that, we'd ask that the Court set a cash
14 bail that's something more akin that a person who
15 is indigent can make. I've talked to my client's
16 sister, Ms. Wathey, and it's my understanding that
17 she is definitely willing to have him stay at her
18 home, and she's willing to be the third-party
19 custodian, but she doesn't have a landline, so that
20 would make electronic home monitoring an impossible
21 situation at this time.

22 So we'd ask the Court to set a reasonable
23 bail that's commensurate with a person in his
24 financial circumstance.

25 THE COURT: All right. Thank you. Do

1 you want to -- well, let me just ask: Attorney
2 Simpson, right now of course the bail is simply set
3 at \$1 million, and I don't think there are any
4 other conditions that are in place.

5 If there were conditions put in place
6 that included a third-party custodianship, would a
7 landline be a necessity? I guess a landline is a
8 necessity, Mr. Phillips is correct, for electronic
9 monitoring? Is that correct, Attorney Simpson?

10 MS. SIMPSON: Yes, Your Honor. And, Your
11 Honor, if I may, I have read the Supreme Court
12 opinion in this issue -- in this case, and I have
13 not been able to quite understand what it is asking
14 of us. I don't know -- I think that this was
15 originally before a different judge, am I correct?

16 THE COURT: I don't think so.

17 MS. SIMPSON: Oh, okay. So I filed back
18 in 2020 an opposition to release, and that motion
19 had detailed extensively the physical harm that
20 Mr. Davis poses to our community, as well as his
21 proven track record as a flight risk.

22 I did argue all of those points in my
23 initial opposition, and the Supreme Court said that
24 that was insufficient. As I'm understanding the
25 Supreme Court's ruling, there needs to be

1 additional and perhaps live testimony. So to that
2 end, I do have Commander Joseph present today. But
3 I would rest on all of the concerns set out in my
4 extensive opposition motion.

5 I believe that even should there be an
6 electronic monitor -- well, I'll put it this way:
7 I don't believe that a release on his own
8 recognizance, even with an electronic monitor, is
9 sufficient to ensure the community's safety with
10 regard to Mr. Davis. And I would also suggest that
11 I may even have concerns for his sister in that
12 situation.

13 So, Your Honor, I could make further
14 argument, and I can certainly put on Commander
15 Joseph for some testimony.

16 THE COURT: All right. Well, let's --
17 Attorney Phillips has suggested conditions that
18 include electronic monitoring, but he has pretty
19 much indicated that he understands that Ms. Wathey,
20 even though willing to act in the third-party
21 custodian capacity, would not be able to qualify
22 because there would not be the opportunity to have
23 electronic monitoring if Mr. Davis were to stay
24 with her where there's no landline.

25 Is there an alternate perspective

1 third-party custodian that you have, Mr. Phillips?

2 MR. PHILLIPS: Not at this time, Your
3 Honor, but I definitely can work on that. May I
4 just respond quickly, Your Honor, about the proven
5 flight risk? And I expect Attorney Simpson has a
6 basis for saying that, but I've looked at the
7 record and I have not seen where he has a single
8 FTA - that's a Failure To Appear - other than a
9 District Court matter where he failed to report to
10 probation within 24 hours after release and a
11 warrant for his arrest was issued.

12 He's been arrested 28 times. I've gone
13 through all of the arrest records. I do not see a
14 single violent offense where he's been convicted.
15 Most cases were dismissed. There was an Attempted
16 Murder in 2002 that he served -- was sentenced to
17 30 years, or something like that, on that case.

18 So the Supreme Court -- it's my
19 understanding the Supreme Court is saying that the
20 charging -- the charge alone, that is the fact that
21 he's charge with a serious offense alone is not --
22 should not -- should have no bearing on the
23 conditions of release or bail. So there has to be
24 something more.

25 And I've looked at the NCIC, which is

1 here. The NCIC, which purportedly lays out his
2 criminal history, says that he also uses the name
3 Jack Bailey. And so the crimes here that are
4 listed are those of my client, as well as Jack
5 Bailey, who is a white male born in 1978 in
6 Pennsylvania. Clearly, that's not my client. So
7 the NCIC is useless for the Court and for the
8 counsel to understand the circumstances.

9 I also have the Virgin Islands Police
10 Department printout. I've looked very carefully.
11 He's charged with Robbery 2, 1996. Dismissed
12 without prejudice. Grand Larceny, dismissed
13 without prejudice. Robbery 1, dismissed without
14 prejudice.

15 What I'm gleaning from this is that he
16 has a bad relationship with the police, and they
17 arrest him all the time. Now, I'm not referring to
18 this instant case, that's not the issue, but he has
19 a bad relationship -- they charge him with
20 burglary, dismissed without prejudice. Robbery,
21 dismissed without prejudice. Possession of a
22 firearm, acquitted. Unlawful firearm, dismissed
23 without prejudice. Assault 3 -- I don't see a
24 violent person here other than Attempted Murder in
25 2002.

1 I see documentation -- well, there's
2 standing. Clearly my client has made threats. I'm
3 not going to deny that. He's threatened a lot of
4 people. He talks a lot of bad stuff, but that is
5 not conduct. And the way he talks to people, he
6 has a right to do that under the First Amendment.
7 That talking, his words do not translate from the
8 action. As far as what I see from the VIPD, all
9 his cases were dismissed with prejudice or without
10 prejudice.

11 THE COURT: Mr. Phillips, he doesn't have
12 a right to make threats under the Constitution or
13 under --

14 MR. PHILLIPS: No.

15 THE COURT: -- the Virgin Islands --

16 MR. PHILLIPS: No.

17 THE COURT: -- statutory law.

18 MR. PHILLIPS: No, no. I apologize, Your
19 Honor. He doesn't have a right to commit threats,
20 but --

21 MS. SIMPSON: Your Honor?

22 MR. PHILLIPS: -- what I'm saying is
23 that -- what I'm saying is that threats, in order
24 to be verbal threats, there has to be some sort of
25 conduct to say that that's actionable. The words

1 alone should not be actionable. He doesn't have a
2 right to threaten anybody. No one has a right to
3 threaten. I apologize. I misspoke, Your Honor.

4 But there should be conduct here that's
5 reflected. He's arrested a lot. He's brought to
6 jail a lot, but he's not convicted very much, not
7 that I can see. And there's really no evidence
8 that he would be violent in he is released on this
9 case. I just don't see it in the record.

10 And maybe counsel there can correct me,
11 because I know that the People's position is that
12 he is a threat to the community. Well, that has to
13 be supported by something. There's also the
14 State's position -- or the People's position that
15 he's a flight risk. That has to be supported by
16 something, not just being able to say that he's a
17 flight risk, when I don't see any failure to appear
18 to this court or anyone else, even though he's had
19 28 arrests. He's never failed to appear in a
20 court.

21 So I'm not sure where the flight risk
22 comes from. He was born here, is my understanding.
23 He's lived here all his life, all these criminal
24 situations, and he's never left the island. So I
25 think that that really is telling, and so I think

1 that he is a viable candidate to be released. I
2 understand totally Attorney Simpson's position, but
3 it has to be backed up by something. So maybe
4 that's what the Supreme Court is saying, that you
5 need to have something more to substantiate that a
6 person is a flight risk and that he's a danger to
7 the community.

8 I did see one circumstance where there
9 was an allegation that he intimidated a witness,
10 and that was dismissed with prejudice. So I'm not
11 sure where counsel --

12 THE COURT: All right. Before I turn
13 back to Attorney Simpson, let me just tell you what
14 I understand the Supreme Court to have said,
15 that -- a number of things actually.

16 That the Rules of Evidence don't exist.
17 And I'm not necessarily taking all this out of the
18 Supreme Court's opinion, but the Rules of Evidence
19 don't apply pursuant to -- I think it's 1101(d) or
20 (d)(3), something like that. And that -- but that
21 everything that is relied upon by the Court must
22 appear in the record. No extra record occurrences
23 that somebody said something or other that's not a
24 part of the record is appropriate for
25 consideration.

1 There was some conflicting evidence or
2 some conflicting presentations in the evidence that
3 were not determined by me, such as the police
4 officer's statement that Mr. Davis' grandmother had
5 indicated that she did not want -- or that
6 Mr. Davis was not welcome in her residence because
7 of his behavior, which was contradicted by Ms.
8 Terrado (phon), the grandmother's declaration
9 presented by former counsel, to the extent that she
10 never said that to the police.

11 And there was no evidence in the record
12 to -- that was presented to resolve that particular
13 discrepancy. And I believe the Supreme Court was
14 concerned that that was something that I had relied
15 upon without having a record that was clear.

16 Any other conflicting evidence that was
17 in the record should be clarified by the
18 presentation of evidence, as I understand it. For
19 example, the record is replete with a handful, if
20 not more, of incidents where Mr. Davis allegedly,
21 according to the police, fled from police at the
22 time he was being -- they were seeking to detain
23 him.

24 And I believe it's in Mr. Phillips'
25 moving paper, I could be wrong about that, but Mr.

1 Phillips, or a different lawyer on behalf of Mr.
2 Davis, said that the fact that Mr. Davis appeared
3 -- fled, appeared to be fleeing from the police,
4 precipitated a high speed chase, a car chase, may
5 well have been, and I think that's a quote, may
6 well have been motivated by his fear of VIPD and
7 that the officers were going to retaliate against
8 him. But, of course, that's -- that's not evidence
9 in the record; that's just counsel's speculation.
10 It's not a proffer that there is evidence that can
11 be presented.

12 So I do think it's proper and perhaps
13 necessary, to the extent that evidence exists
14 through witnesses, to -- in favor of or against the
15 factors that the Court needs to consider in setting
16 the proper amount of bail and the appropriate
17 conditions for release. So if you have any
18 evidence that you want to put on, either party --
19 it's your case, Attorney Phillips, so you can do
20 that first if you want to.

21 I'm glad to hear from Ms. Wathey, as the
22 appropriateness of her being a third-party
23 custodian, but that seems to be an exercise in
24 futility, because as Mr. Phillips already
25 indicated, that you would think that an appropriate

1 condition of release would be electronic
2 monitoring, which with I concur, and that
3 electronic monitoring could not be accomplished
4 through the third-party custodianship of Ms. Wathey
5 because she does not have a landline.

6 So I'm glad to hear from her if she has
7 anything else to present, but other than that, I
8 don't see any need to hear from Ms. Wathey as to
9 her appropriateness as a third-party custodian. Is
10 there anybody else that you wanted to present
11 through, Attorney Phillips?

12 MR. PHILLIPS: No, there is not, Your
13 Honor. I would just add that if the Court in its
14 order, maybe it can be conditional condition, so to
15 speak, in that what Ms. Wathey said today, maybe
16 she'll be able to rectify that circumstance of a
17 landline. She maybe able to get a line, a
18 landline. So the Court could order electronic home
19 monitoring on the condition that Ms. Wathey is able
20 do get a landline, and electronic home monitoring
21 can be set up, but that would have to be something
22 that she's (inaudible), and we're not able to
23 resolve at this point.

24 THE COURT: All right. I don't believe
25 that Ms. Wathey has been presented before this

1 morning as a potential third-party custodian. Is
2 that correct?

3 MR. PHILLIPS: That's correct. I don't
4 believe so, Your Honor.

5 THE COURT: All right. And so the People
6 have not had a opportunity to vet Ms. Wathey, is
7 that correct, Attorney Simpson?

8 MS. SIMPSON: Yes, Your Honor, that's
9 correct.

10 THE COURT: Let's go ahead. Ms. Wathey,
11 do you have a camera on your device?

12 MS. WATHEY: Yes.

13 THE COURT: There you are.

14 MS. WATHEY: Good morning.

15 THE COURT: Good morning. Let's go
16 ahead. Ms. Laurencin, could you swear the witness,
17 Ms. Wathey, please?

18 THE CLERK: Raise your right hand.

19 (Upon the oath being administered,
20 JACQUELINE DAVIS testified as
21 follows:)

22 THE COURT: Go ahead, Mr. Phillips.

23 DIRECT EXAMINATION

24 BY MR. PHILLIPS:

25 Q. Ms. Wathey, can you please spell your last

1 name, please?

2 A. It's Davis. Jacqueline Davis.

3 Q. Jacqueline Davis?

4 A. Yes. (Inaudible.)

5 Q. Oh, okay. That's why. And do you know Jimmy
6 Davis?

7 A. Yes.

8 Q. And how do you know Mr. Davis?

9 A. He's my little brother.

10 Q. Okay. And so I guess the question is: Are
11 you willing to be his third-party custodian?

12 A. Yes.

13 Q. And do you realize that that would require you
14 to be responsible for his behavior, his reporting -- to
15 appear in court, and that the judge may require you to
16 report if in fact he is not making himself available or
17 he's violating any of the conditions the court
18 imposes?

19 A. Yes, sir.

20 Q. Are you willing to do that, to operate in that
21 capacity?

22 A. Yes.

23 Q. Okay. Are you also willing to look into
24 whether a landline could be acquired so that an
25 electronic monitoring device would be available to him

1 if the Court so ordered?

2 A. Yes.

3 Q. And how long have you lived here on
4 St. Croix?

5 A. All my life, but back and forth. But all my
6 life, yes.

7 Q. Okay.

8 MR. PHILLIPS: I don't think I have any
9 anything further, Your Honor.

10 THE COURT: All right. Before
11 Ms. Simpson.

12 Ms. Davis, I didn't understand. Did you
13 used to be named Wathey.

14 THE WITNESS: Yes.

15 THE COURT: And you resumed your born
16 name?

17 THE WITNESS: Davis, yes.

18 THE COURT: Davis, yes. Ms. Davis, where
19 you do you live?

20 THE WITNESS: 815 Williams Delight.

21 THE COURT: And who lives with you there?

22 THE WITNESS: My mom.

23 THE COURT: How's your mom doing?

24 THE WITNESS: She's not well. She's
25 very, very ill. She had two tumors in her brain,

1 and we took it out. (Inaudible), she had two
2 strokes. And, Your Honor, I really need him to be
3 able to come to assist me with her.

4 THE COURT: Does anyone else live with
5 you?

6 THE WITNESS: No.

7 THE COURT: What is your cell phone
8 number (786) 812-2784.

9 THE COURT: Attorney Simpson, you may
10 inquire.

11 MS. SIMPSON: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. SIMPSON

14 Q. Good morning, Ms. Davis.

15 A. Good morning.

16 Q. It would be my understanding -- well, first of
17 all, what is the age difference between you and
18 Mr. Davis?

19 A. I'm 47. And -- about three years.

20 Q. Okay. So you essentially grew up with
21 Mr. Davis; is that right?

22 A. Mm-hmm.

23 Q. Has Mr. Davis ever in any way been violent
24 with you or other members of your family?

25 A. No. He just talks a lot.

1 Q. What is your experience with Mr. Davis'
2 ability to follow the rules of the household?

3 A. He never lived with me before, so I don't --

4 Q. Growing up, was he able to follow your
5 parents' rules?

6 A. Yes, you know.

7 Q. Okay. And if I'm understanding correctly, you
8 believe that you would be able to obtain a landline?

9 A. Yes.

10 Q. Okay. And would you, or somebody in your
11 family, be able to pay for electronic monitoring?

12 A. I'll have to pay for it.

13 Q. Are you employed at the moment?

14 A. Yes.

15 Q. Okay. And what do you do?

16 A. I'm the receptionist at the governor's
17 mansion.

18 Q. Okay. And that then would be an 8:00 to 5:00
19 job?

20 A. Yes.

21 Q. Who would be keeping track of Mr. Davis while
22 you were at work?

23 A. I guess no one. I would have to call some
24 (inaudible) if he's there.

25 Q. Okay. And should Mr. Davis violate the terms

1 of his release, are you comfortable, even though you
2 definitely need his help with your mother, in turning
3 him in?

4 A. I will.

5 Q. Okay.

6 A. I will do that.

7 Q. Okay. Is there anything that you believe that
8 you would need by way of the court, through any kind of
9 social services or the court, to help Mr. Davis follow
10 your rules and do what he is supposed to do?

11 A. I think he needs, like, counseling.

12 Q. Is that something that you might be able to
13 arrange?

14 A. I'll try and see if I could do that for him.

15 Q. Okay. Do you have any concerns about
16 Mr. Davis coming to live with you?

17 A. No.

18 Q. Okay. And there are no minor children in the
19 household?

20 A. No. It's just me and my mom.

21 MS. SIMPSON: Thank you, Your Honor. I
22 have no further questions.

23 THE COURT: Very well. Ms. Davis, you
24 said that Mister -- that your brother has never
25 been violent. He just talks a lot. And when you

1 say "he just talks a lot," do you mean talks in a
2 way that he is going to be violent, but that
3 doesn't follow through on that then?

4 THE WITNESS: Your Honor, he has a big
5 mouth. I don't take him on. If he's going to come
6 out, he's going to do what he has to do. And if
7 not, I will call you guys.

8 THE COURT: Okay. And in the past, when
9 he has had a big mouth and has -- I think you said
10 that he has -- the question was, has he ever been
11 violent, and you said, no, he just talks a lot.

12 THE WITNESS: (Inaudible.)

13 THE COURT: Pardon?

14 THE WITNESS: Little arguments, and then
15 he will go, and that's it.

16 THE COURT: And those arguments, those
17 include threats of physical harm?

18 THE WITNESS: No.

19 THE COURT: Okay. And you said that he
20 hasn't been violent with you. Do you know of him
21 being violent with others?

22 THE WITNESS: I'm not sure. I don't
23 know. I don't talk about he.

24 THE COURT: Okay.

25 THE WITNESS: (Inaudible) mom and stuff.

1 THE COURT: And have you seen him making
2 threats or having a big mouth, along those lines,
3 with others?

4 THE WITNESS: No. I mean, I never seen
5 him interacting like that.

6 THE COURT: Okay. All right. Anything
7 else, Mr. Phillips?

8 MR. PHILLIPS: Nothing, Your Honor.

9 THE COURT: Attorney Simpson?

10 MS. SIMPSON: Nothing based on that, Your
11 Honor.

12 THE COURT: All right. Ms. Davis, thank
13 you very much.

14 THE WITNESS: Thank you.

15 THE COURT: If the lawyers don't want to
16 keep you around, you're free to go.

17 THE WITNESS: All right. Thanks.

18 MR. PHILLIPS: Thank you.

19 (Witness excused.)

20 THE COURT: Anything else you'd like to
21 present, Mr. Phillips?

22 MR. PHILLIPS: No, Your Honor.

23 THE COURT: Very well. Attorney Simpson,
24 do you want to bring on Commander Joseph?

25 MS. SIMPSON: I will, Your Honor. I just

1 wanted to inquire, to make sure, Mr. Phillips, you
2 do have my original opposition to this motion; is
3 that correct?

4 MR. PHILLIPS: I should have it here in
5 the file, yes.

6 MS. SIMPSON: Okay.

7 MR. PHILLIPS: (Inaudible.)

8 MS. SIMPSON: All right. If you need me
9 to re-mail it, I can certainly do so.

10 MR. PHILLIPS: Okay. I'm sure the other
11 attorneys have it in the file. It's a pretty
12 extensive file. I just haven't --

13 THE COURT: It's also in the electronic
14 record.

15 MR. PHILLIPS: Yes. I have access to it.

16 MS. SIMPSON: Okay. Thank you so much.

17 Commander Joseph, can you put your camera
18 on, please?

19 THE COURT: Okay. Could we swear
20 Commander Joseph, please, Ms. Laurencin?

21 THE CLERK: Raise your right hand.

22 (Upon the oath being administered,
23 NAOMI JOSEPH testified as
24 follows:)
25

1 DIRECT EXAMINATION

2 BY MS. SIMPSON:

3 Q. Good morning, Commander Joseph. Will you
4 please state and spell your name for the record?

5 A. Naomi Joseph. N-A-O-M-I, J-O-S-E-P-H.

6 Q. How are you employed?

7 A. I'm employed with the Virgin Islands Police
8 Department. I've been so employed since 1986.9 Q. And have you been personally involved with any
10 incidents involving Mr. Davis during that time?

11 A. Unfortunately, yes.

12 Q. And how long would you say that involvement
13 goes back?14 A. So in the '90's, when he's first a juvenile
15 delinquent and then as an adult, so we've been -- I've
16 had encounters with Mr. Davis from the '90's.17 Q. And in your opinion, having been -- having had
18 knowledge of Mr. Davis for that period of time, if
19 Mr. Davis were to be released, do you have any concerns
20 for the safety of our community?21 A. Yes. The last release, within days of
22 release, we had a rape. (Inaudible.)23 Q. I would ask specifically about incidents other
24 than the particular one with which he's been charged.

25 A. Well, if our last encounter goes back to that

1 last charge, but in trying to make contact with him, he
2 led us into a high speed chase. We had to do a
3 community search in the neighborhood, speak to family
4 members, and we literally camped out in Williams Delight
5 to actually make our last arrest. Previously to that,
6 it'd been one arrest up to the other.

7 Q. And to be clear, the results of those arrests,
8 whether they were dismissed or not, is that the decision
9 of your office?

10 A. No, that's the court.

11 Q. Or DOJ; correct?

12 A. Yes.

13 Q. Okay. Do you know, and if you don't, that's
14 fine, but do you know how many of these high speed
15 chases that Mr. Davis has been involved with?

16 A. Off the top, I can recall three.

17 Q. Okay. And so when we -- you've not known him
18 to leave the island; correct?

19 A. No, just hide out, and then he's hidden by
20 family members as well.

21 Q. Okay. Now, you say family members. Do you
22 have any familiarity with Ms. Davis, who appeared
23 earlier?

24 A. No, I don't really know her. I've met the
25 mother. Dealt with the grandmother. Then when his

1 brother -- his brother was out, (inaudible), I dealt
2 with him and Jimmy together. So over the years, I've
3 actually dealt with those who supposed to have authority
4 over him, the mother, grandmother, and the father, and
5 the brother who was caught in a crime, but I really
6 don't know the sister and have interactions with her
7 like that.

8 Q. To your knowledge, has Mr. Davis ever been
9 violent with Virgin Islands police officers?

10 A. Yeah. He got charged with assaulting police
11 officers on more than one occasion.

12 Q. Have you personally ever witnessed that
13 violence?

14 A. No.

15 Q. Okay. Do you believe, based on your history
16 with Mr. Davis, that he will be able to follow rules and
17 limitations that the Court sets?

18 A. Jimmy history demonstrates that he do not
19 follow orders, ma'am. He's historically known not to
20 follow orders. And it doesn't matter from which court,
21 whether it be District Court, local court, he doesn't
22 follow court orders.

23 Q. Can you tell the Court, please, about the
24 amount of resources with regard to VIPD that have
25 traditionally been used with regard to Mr. Davis?

1 A. We have had to use everyone, from patrol,
2 Special Operation Bureau, the Criminal Investigation
3 Bureau, all the resources just to find him when we're
4 looking for him to place him under arrest for the
5 various -- and I think the attorney made mention to the
6 28 times that he's been arrested.

7 Q. Does the VIPD have available those kind of
8 resources at the present time if Mr. Davis is not able
9 to follow the terms of his release?

10 A. Attorney, we're stretched thin, they thin at
11 this point. So we don't have extra resources. We
12 don't.

13 Q. Okay. Is there anything else that you believe
14 the Court should know about your personal experiences in
15 your professional capacity with Mr. Davis?

16 A. The Court should be aware that his family has
17 no control over him. None. Grandmother, mother. I
18 know she's ill now. Sister ain't going to have no
19 control over Jimmy. Jimmy does as Jimmy wants. And if
20 you tell him -- if you put resistance on him, Jimmy
21 fights. And so I anticipate that if he is released,
22 we're going to be back and forth to Williams Delight
23 often, because he's going to be in places that he's not
24 supposed to. That's Jimmy historical disposition.

25 MS. SIMPSON: Thank you. I have no

1 further questions. I would tender the witness.

2 MR. PHILLIPS: May I, your Honor?

3 THE COURT: Mr. Phillips? Yes, please.

4 MR. PHILLIPS: Thank you.

5 CROSS-EXAMINATION

6 BY MR. PHILLIPS:

7 Q. Good morning, Commander Joseph.

8 A. Good morning, Attorney.

9 Q. Okay. I'm Howard Phillips. You don't know
10 me. I'm relatively new on the island. By I'm
11 representing Mr. Davis. So obviously you have more
12 history with Mr. Davis than I do.

13 A. Yes.

14 Q. But my question is, you said that at least
15 three times the police have had to do a high speed
16 chases to catch him; is that right?

17 A. In car and on foot, yes.

18 Q. Okay. And when he was arrested on this case,
19 on the case that's now pending, the rape case, was he
20 arrested as a result of a high speed chase?

21 A. We chased him. He destroyed a car as a result
22 of that. He went into Williams Delight and hid, and
23 then he turned himself in by his mother, and we went to
24 the house and picked him up.

25 Q. Okay. So --

1 A. But the house -- we had contact with his
2 mother. Told his mother that she can't be hiding him.
3 And when he got there, he took a bath, then she called
4 police.

5 Q. Isn't it true that he self-surrendered on this
6 case?

7 A. After -- okay. Yes, he called and turned
8 himself in.

9 Q. All right. Thank you. Now, you also
10 testified that he's been violent with police in the
11 past, but you are not a witness; is that right?

12 A. But you have the rap sheet. You can see he
13 was arrested for assaulting police officers on more than
14 one occasion.

15 Q. And do you see the -- was he charged with
16 assaulting the police officers, do you know?

17 A. Yes, he was charged, assault and battery
18 against a police officer. The cases were dismissed, not
19 by us, but by the government.

20 Q. That's the question then. He was not
21 convicted, was he?

22 A. No, there's no conviction, but he was
23 charged.

24 Q. Okay, thank you. Thank you, ma'am. You also
25 said that he doesn't follow court orders. You said that

1 pretty emphatically; is that right?

2 A. Yes.

3 Q. Can you give me an example of a court order
4 that he did not follow?

5 A. Right in court (inaudible) required, Judge --
6 in the District Court, they had to chain him just to be
7 quiet. Just to be quiet. Put in chains and gag him
8 just to be quiet. Really, attorney?

9 Q. So by saying he failed to follow court orders,
10 you're not saying conditions of release; you're
11 saying -- you mention a court order of his behavior in
12 court; is that right?

13 A. Well, that's a court order, isn't it? I'm
14 sorry for asking.

15 Q. That's okay. That's fine. I totally
16 understand. But my question to you is: Do you know of
17 any specific release condition that he violated from any
18 court?

19 A. I know, if memory serves me correctly, that he
20 was supposed to stay at one location but was at another.
21 If memory serves me correctly, he was supposed to be at
22 the grandmother on one of the arrests, but then he went
23 somewhere else. And so that would have been a violation
24 of the court order. And that's one of the reasons when
25 we went into Williams Delight, trying to locate him on

1 the last offense, the grandmother said that Jimmy
2 wouldn't be at her house because he doesn't follow
3 rules.

4 Q. Okay. But the bottom line --

5 A. That's what she told me personally to my face
6 when I went to her door and knocked on her door.

7 Q. But the bottom line is that he
8 self-surrendered, isn't that true?

9 A. If you say he turn himself in, that would be
10 correct, but this was --

11 Q. Okay?

12 A. -- after we saturated Williams Delight.

13 We actually camped out at his mother's house,
14 and his grandmother is right across the street.

15 Q. Do you know of any instances where he violated
16 the court order that he remain on the island and he
17 absconded or took off and left the island? Do you know
18 of any instances of that?

19 A. No, I do not. No, he just stayed on St. Croix
20 and terrorized it.

21 MR. PHILLIPS: All right. Thank you,
22 ma'am. Nothing further, Your Honor.

23 THE WITNESS: Okay.

24 THE COURT: Commander Joseph, what did
25 the grandmother say to you and when?

1 THE WITNESS: When we were looking for
2 him in 2020, after the alleged rape, we went into
3 Williams Delight because -- we had a chase. He
4 abandoned the vehicle. And so we went to places
5 that we know that he would probably go to, which
6 would be Mr. Rado (phon) and his mother.

7 So when I got to Mr. Rado's house, she
8 knows me, I knows her, she told me Jimmy would not
9 be there, because Jimmy doesn't listen. And he
10 knows well not to come to her house. That's what
11 she told me at the door. And you know me ain't
12 lying, Jimmy.

13 THE COURT: I'm not sure exactly what
14 that means. He would not be at her house because
15 he doesn't listen. What does that mean?

16 THE WITNESS: Yes. She said he --
17 whatever encounter they had prior to him going to
18 jail is what she was making reference to. But she
19 made it clear that he would not be at her house.

20 THE COURT: Because she would not allow
21 it, or --

22 THE WITNESS: Yes, sir, she would not
23 allow it.

24 (Witness excused.)

25 THE COURT: All right. Anything else

1 from either lawyer?

2 MR. PHILLIPS: Nothing, Your Honor.

3 MS. SIMPSON: Your Honor, we would stand
4 on the details as set out in my original
5 opposition, and certainly if the Court feels its
6 necessary, I can attempt to bring in any live
7 witnesses to any of the numerous incidents that I
8 detailed in my motion.

9 THE COURT: Very well. Well, I'm going
10 to be guided by the record in this case.

11 This matter was set for hearing today, so
12 each side was aware that, based upon what happens
13 here today, a ruling would follow and therefore
14 this is really the opportunity that each side has
15 had to present any evidence to supplement the
16 record.

17 So both sides have extensively put in
18 writing and also stated on the record on multiple
19 occasions the respective positions. If either side
20 wants to be heard again briefly, I'll give you a
21 couple of minutes each.

22 MS. SIMPSON: Your Honor, we feel we've
23 been heard.

24 THE COURT: Very well.

25 MR. PHILLIPS: Just briefly, Your Honor.

1 The Supreme Court, the Virgin Islands Supreme
2 Court, said that appearing -- the purpose of bail
3 and conditions should assure the person appears in
4 Court. There is no evidence that my client will
5 not appear in court. That's the principal purpose
6 of the bail and conditions according to the Supreme
7 Court.

8 I supplemented my briefing with my
9 addendum citing the Moran (phon) case, and it's
10 pretty clear that there has to be some evidence
11 that he will not appear in court. That's the
12 primary purpose of bail and (inaudible), his
13 appearance. I understand counsel's concern for the
14 safety of the community, but when I look at the
15 record, I see (inaudible) arrested a lot, charged a
16 lot, and then they're either dismissed, cases are
17 dismissed, and with prejudice or without prejudice.

18 I have nothing further, Your Honor.

19 THE COURT: All right. All right. Thank
20 you, both, very much. I'll take it under
21 advisement. And please be proactive to seek to
22 come to a resolution on the other issue. And if
23 that can be accomplished by agreement, then,
24 please, submit something as soon as you're able,
25 and either -- if it appears as though we've got to

1 put it all on the record by hearing, then I'll do
2 so. Otherwise, if the two sides and BOC can come
3 to an agreement that makes sense for everybody,
4 then I don't see any reason I wouldn't just sign
5 off on that.

6 MR. PHILLIPS: Very well, Your Honor.

7 THE COURT: As things stand, I'll see you
8 all on November 9 at 11 o'clock by Zoom.

9 Commander Joseph, thanks very much for
10 being here. And Mr. Davis. And I'm sorry. Thank
11 you, Ms. Laurencin, Mr. Belsvik. I'm sorry we
12 didn't get our break. You're going to have your
13 break now, sir. Thank you all very much. I'll
14 conclude this session now.

15 MR. PHILLIPS: All right. Thank you,
16 Your Honor.

17 MS. SIMPSON: Thank you, Your Honor.
18 Have a good day.

19 (Proceedings conclude at 11:07 a.m.)
20
21
22
23
24
25

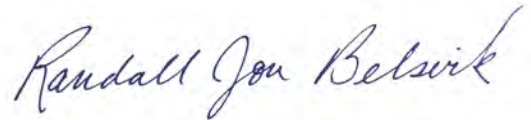
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION OF REPORTER

I, Randall Jon Belsvik, Registered Merit Reporter and Federal Certified Realtime Reporter, as an Official Court Reporter for the Superior Court of the Virgin Islands, Division of St. Croix, United States Virgin Islands, do hereby certify that I stenographically reported by machine shorthand equipment, in my official capacity, the CIVIL HEARING in the matter of People of the Virgin Islands versus Jimmy Davis, Case Number SX-2020-CR-00098, in said Court, on Wednesday, October 26, 2022.

I further certify that the foregoing 83 pages of this certified transcript are a true and accurate computer-aided transcription of my stenographic notes of said proceedings.

I have hereunto subscribed my name this 26th day of December, 2022.



Randall Jon Belsvik, RMR, FCRR
Official Court Reporter

FILED

November 29, 2022 05:11 PM

SX-2020-CR-00098

TAMARA CHARLES
CLERK OF THE COURT

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

PEOPLE OF THE VIRGIN ISLANDS,
Plaintiff,

vs.

JIMMY DAVIS,
Defendant.

SX-2020-CR-00098

CHARGE(S): RAPE FIRST DEGREE;
UNLAWFUL SEXUAL CONTACT FIRST
DEGREE; BURGLARY FIRST DEGREE;
ASSAULT FIRST DEGREE; HOME
INVASION

2022 VI SUPER 95

MEMORANDUM OPINION

THIS MATTER is before the Court on Defendant's Renewed Motion for Modification of Bail ("Renewed Motion") filed March 22, 2021, fully briefed. At the June 14, 2021 hearing on the Motion, the Court issued findings and orally denied the Renewed Motion. On June 22, 2021, Defendant Jimmy Davis filed an interlocutory appeal to the Virgin Islands Supreme Court. On April 1, 2022, the Supreme Court issued an opinion holding that this Court "erred when it denied [Davis's] motion for modification of bail for the reasons given at the June 14, 2021 hearing." *Davis v. People*, 2022 VI 8, ¶ 8 (V.I. 2022). Because the Court "applied the incorrect legal standard when it...denied Davis's motion without explaining how its findings justified setting bail at \$1,000,000," the matter was remanded so this Court could "clearly articulate how its findings support setting bail" in a particular amount. *Id.* at ¶¶ 12 n.2, 13. A hearing was held on October 26, 2022, wherein the parties were to "be prepared to present evidence, or to identify specific evidence in the existing record, on the factors to be considered regarding Defendant's release, including how those factors do or do not warrant imposition of specific terms and conditions and the maintenance of bail in any particular monetary amount."¹ For the reasons set forth below the Renewed Motion will be granted, and bail will be reduced from \$1,000,000 to \$250,000.

BACKGROUND

Davis was arrested on April 6, 2020 for rape in the first degree, among other charges. In the arrest report bail was listed at \$100,000, "as per chart."² At his advice of rights hearing on April 8, 2020, the People objected to Davis being released on bail, proffering that he was a flight

¹ Order (Apr. 22, 2022) (setting hearing for May 24, 2022 on the Renewed Motion following the Supreme Court's remand). That hearing was delayed, ultimately until October 26, 2022, as between April 2022 and October 2022, eight different attorneys moved to be relieved as Defendant's counsel.

² Probable Cause Fact Sheet, at 38; *see also* Amended Order Modifying the Setting of Bail in the Absence of a Judge (SX-2020-MC-00024) ("Bail Chart"), signed March 23, 2020 by then Presiding Judge Harold W.L. Willocks, which sets bail for first-degree rape at \$100,000.

risk and a danger to the community.³ The People also claimed that Davis was to be serving a federal sentence and was mistakenly released before committing the instant offense.⁴ At the April 8, 2020 initial hearing, the magistrate judge ordered that Davis’s bail would “remain at \$1,000,000.”⁵

Davis first moved for reconsideration of bail on August 11, 2020, arguing that \$1,000,000 was grossly excessive and designed only to punish, noting his indigency. First Motion for Modification of Bail (“First Motion”), at 3. Davis noted that he has lived on St. Croix all his life, has numerous family members here including his parents, and “upon learning a warrant was issued for his arrest in this matter...turned himself in,” thus arguing that he did not constitute a flight risk. *Id.* Davis indicated that his mother would be willing to serve as his third-party custodian and assure his appearance before the Court. *Id.* Lastly Davis noted, without reference to any particular cases, his history of appearances before various courts in other matters. *Id.*

In opposition, on August 17, 2020, the People proffered that because Davis’s National Crime Information Center (“NCIC”) and Virgin Islands Police Department (“VIPD”) records indicated that he had been arrested “approximately” 38 times and convicted for 8 offenses—many of which occurred while he was on bond or supervised release for other offenses—Davis posed a risk of physical harm to the community. Opposition to First Motion for Modification of Bail (“First Opposition”), at 2. The People also argued that Davis had been involved in multiple high-speed chases with VIPD, and “has shown a disregard for the orders of this and other courts,” and as such presented a flight risk.⁶ *Id.* at 2-4. While the People agreed that Davis eventually surrendered to

³ Memorandum Record of Proceeding (Apr. 8, 2020).

⁴ *Id.* Davis has indicated that he was in federal custody from February 26, 2018 until March 27, 2020. *See* Defendant’s Emergency Renewed Motion for Modification of Bail, at 3 (Dec. 1, 2020). A warrant was issued for Davis by the U.S. District Court magistrate judge on March 31, 2020, for failure to report to probation within 72 hours of being released. *See* Probable Cause Fact Sheet, at 61.

⁵ *Id.* The WebEx recording of this hearing, conducted without a court reporter, is unavailable and no transcript exists. As such, it is unknown what findings, if any, were made by the magistrate judge regarding the bail amount. Further, it remains unclear from the available record whether the magistrate judge in fact increased Davis’s bail from \$100,000 to \$1,000,000 at that hearing or, if not, when the bail was increased.

⁶ The First Opposition included an April 4, 2020 supplemental VIPD report in this matter and February 6 and February 27, 2018 supplemental reports related to VIPD’s attempt to arrest Davis for a December 12, 2017 assault (Complaint No. 17 A-11951). Those 2018 supplements reported that Davis made “several telephone calls” to the Superior Court Clerk’s office, “became irate and began cursing.” Further, Davis is reported to have called the Superior Court inquiring about a family court case involving him. When the clerk advised him that the requested information could not be disclosed by phone, “Mr. Davis began cursing and he made threats saying the Superior Court will find the clerk in a body bag.”

Davis was arrested for the December 2017 assault on February 26, 2018, as he sought to evade police. The supplemental report stated that police pursued Davis until one marked VIPD unit cut him off, at which point “Davis then placed the truck he was operating in reverse and collided into” a second marked police vehicle.

Another high-speed chase referenced in the First Opposition occurred January 31, 2010 as recounted in the U.S. District Court’s description, of which the Court takes judicial notice: “On January 31, 2010, police were informed that an individual with a gun was seen in the Aurea Diaz Housing Community driving a blue Suzuki Aerio. Police responded and observed a vehicle matching this description a short distance from the housing community. A high-speed chase ensued; the suspect eventually drove through a fence on someone’s property and drew a gun on the pursuing officer. The suspect escaped, but abandoned the vehicle. Inside the vehicle, police found a cell phone that

police, they noted that he refused to complete the booking process by providing buccal swabs. *Id.* at 4. The People also stated that “law enforcement records indicate that the Defendant has used multiple aliases.” *Id.* Lastly, the People detailed previous threats Davis allegedly made to a victim in one matter and to a juror in another, and stated that the victim in the instant matter and her brother would both testify that after the alleged rape, Davis told them he was going to return to their residence.⁷

In his August 28, 2020 reply, Davis noted that the People’s First Opposition focused almost exclusively on prior arrests, the majority of which had been dismissed or resulted in no conviction. First Reply Re: Motion for Modification of Bail (“First Reply”), at 1. Davis also proffered that he has remained on the island of St. Croix for his entire life, thus could not be considered a flight risk. *Id.* at 2.

A hearing was held November 16, 2020, wherein the Court orally denied the First Motion without prejudice and instructed counsel to provide supplemental information regarding the status of Defendant’s federal sentence.⁸

On December 1, 2020, Davis filed his Emergency Renewed Motion for Modification of Bail (“Emergency Motion”) and provided an April 14, 2020 V.I. Bureau of Corrections Sentence Data Record (“Timesheet”) reflecting the status of his incarceration for Territorial matters.⁹ Also attached to the Emergency Motion was a pretrial release order from two 2018 criminal cases brought against Davis, to support his contention that because this Court previously released Davis pending trial, there was “no reason for the court to diverge from the prior ruling in this matter.”¹⁰

allegedly contained Defendant[Davis]’s picture. A police officer identified the person in the picture on the phone as the person he was pursuing. Based on these circumstances, the Superior Court issued a search warrant for No. 816 William’s Delight and an arrest warrant for Defendant. On February 13, 2010, members of the VIPD executed the search warrant at 816 William’s Delight. During the execution of this search warrant, a member of the VIPD witnessed what appeared to be a hand grenade being tossed from the living room window of the house. The search of the residence also revealed a handgun. Defendant Jimmy Davis and his mother were the only occupants of the home at the time of the search. Defendant was arrested and placed in the custody of the VIPD.” *United States v. Davis*, 2010 U.S. Dist. LEXIS 59354, at *2-3 (D.V.I. June 15, 2010).

⁷ In an earlier federal prosecution, while on supervised release following a term of incarceration for conviction of felon in possession of ammunition, Davis was found to have violated conditions of his release, disturbing the peace by threatening the minor victim that if she told anyone what happened, “he would deal with [her] mother, [her] father, and he was going to leave [her] brother for last.” *United States v. Davis*, 748 F. App’x 449, 451 (3d Cir. 2018).

The People also noted that Davis was arrested in 2014 for threatening a witness/corruptly influencing a juror. The Court judicially notes the records of the Superior Court, which reflect that Davis was charged in Case No. SX-2014-CR-00028 with a violation of 14 V.I.C. § 1501. That matter was dismissed with prejudice on the People’s motion.

⁸ Memorandum Record of Proceeding (Nov. 16, 2020).

⁹ The Emergency Motion indicated that the Timesheet “does not fully reflect the assessment of Mr. Davis’s incarceration” for federal matters. Emergency Motion, at 3.

¹⁰ The Court takes judicial notice of the Superior Court’s records reflecting the following: in SX-2018-CR-00012, pursuant to May 16, 2019 Plea Agreement, Davis was to plead guilty to Simple Assault and Battery/Domestic Violence (14 V.I.C. §299(2) and 16 V.I.C. §91(b)(1) and (2)) and to serve six months incarceration concurrent with his federal sentence. Davis remained in federal custody and was not brought before the Superior Court for change of plea hearing, as “the United States Marshal Service refuses to honor any writ [of habeas corpus ad prosequendum] relating to Defendant Jimmy Davis for Territorial matters.” Order (Jul. 19, 2019). The case was dismissed with prejudice on

Davis argued that none of the exhibits offered by the People established their “inflammatory accusation” that he had participated in several high-speed chases with police, and reiterated that he voluntarily surrendered to police in this matter.¹¹ *Id.* at 5-6. Lastly, Davis proffered that the People’s contention that his arrest record “ipso facto establishes he is a threat to the community . . . is a mischaracterization that belies the foundational constitutional principle that one is presumed innocent until proven guilty.” *Id.* at 6. The People did not respond in writing to the Emergency Motion.

At a status conference held December 30, 2020, the Court “accepted the People’s suggestions and concerns,” found Davis’s proposed conditions of release insufficient, and denied the Emergency Motion.¹² The Court noted that it was “primarily concerned with the potential danger that Defendant may pose to the community,” rather than his being a potential flight risk. Renewed Motion, at 3.

In his Renewed Motion, Davis in part incorporates his prior arguments by reference, and further argues that the People offered a false statement at the December 30, 2020 status conference regarding his grandmother’s “refusal to let Defendant reside at her residence due to his behavior.” Renewed Motion, at 3-4. In support, Davis offers the January 12, 2021 Declaration of Genoveva Tirado, his grandmother (“Declaration”), who declared that “the language contained in the Virgin Islands Police Department’s Supplement Report No. 1, page 3 dated April 4, 2020 is false, and is a misrepresentation of my conversation with Officer [Naemah] Daniel on that date.” Declaration, at 2. Davis argues that “the clear falsity of the evidence the People put forward calls into question the veracity of all other supporting arguments and statements made in this and other police reports introduced by the People.” Renewed Motion, at 3. Davis also puts forth his brother, Stephen Davis, as a potential third-party custodian. *Id.* at 4.

The People’s June 11, 2021 Opposition to Renewed Motion for Modification of Bail (“Renewed Opposition”) incorporates by reference the previous written opposition. The People deny that Officer Daniel’s statement in the supplemental report was false, note that the accusation of that statement’s falsity is the only difference between the Renewed Motion and those previously filed, and emphasize that the Court denied all such previous motions. Renewed Opposition, at 1.

January 27, 2020 after the federal sentence had run. In SX-2018-CR-00044, charges of simple possession of a controlled substance and aggravated assault and battery upon a police officer were dismissed with prejudice by Order of June 12, 2018, on the People’s June 11, 2018 Motion to Dismiss with Prejudice, for the reason that “this matter will be prosecuted in the District Court of the Virgin Islands.”

¹¹ “The Exhibits to the People’s Opposition to the original motion show it took several days for authorities to locate Mr. Davis in previous matters. But this does not establish that Mr. Davis was evading justice.” Emergency Motion, at 5.

¹² Memorandum Record of Proceeding (Dec. 30, 2020).

A hearing was held on the Renewed Motion on June 14, 2021, wherein “the court reviewed for the record Defendant’s record of arrests and convictions” and denied the motion.¹³ Regarding risk of flight, the Court stated in part:

There’s not anything in the record that I’ve seen, nor do I hear anything from the People, that makes me believe that Mr. Davis is a flight risk from the island of St. Croix. But that, in and of itself, doesn’t suggest that Mr. Davis would appear at court when obligated to appear at court...

....

...I can say with a very high degree of assurance that a substantial number of the times when Mr. Davis was arrested were times when he was under court supervision in one form or another and each of those arrests I would expect would constitute a violation of conditions of release. In this case...he refused...to give a buccal swab, prompting the magistrate judge’s order that he submit to that process, which, as far as I can tell from the record, has not yet been complied with. All of that being said...I don’t have good assurance that he would comply with the requirements to make himself available pursuant to court order at any particular time.

Transcript of June 14, 2021 Motion Hearing (“Transcript”), at 12, 14.

As to Defendant Davis posing a danger to the community, the Court stated in part:

Mr. Davis is reported, according to the record in front of me, to have, among his multiple calls to the Superior Court...a particular call was made under a ruse that Mr. Davis called himself by a different name, but requested information about an outstanding warrant, and the responding clerk indicating that she was unable to provide that type of information...by telephone, threatened that person on the phone, indicating that...she would be found in a body bag.

In this case, the 15-year-old...alleged victim...and the 11-year-old brother of the alleged victim, again, according to the charges, none of which have been proven in court, but that Mr. Davis was uninvited into the residence into which he entered and simply followed the 11-year-old brother into the house uninvited. After the incident took place to the alleged victim and to the 11-year-old brother, Mr. Davis reportedly said that he would be back. It was within the next three days that Mr. Davis was arrested and ultimately turned himself in.

Based on the history from 1995 to the present, I cannot do anything other [] than to take seriously the statements that Mr. Davis has made, specifically with regard to the alleged victim in this case.

Transcript, at 15-16.

On June 22, 2021, Davis appealed the Court’s denial of the Renewed Motion to the Virgin Islands Supreme Court.¹⁴ Trial was then scheduled for November 8, 2021.¹⁵

¹³ Memorandum Record of Proceeding (June 14, 2021).

¹⁴ Notice of Appeal (June 22, 2021).

¹⁵ Final Scheduling Order (Oct. 7, 2021).

I. Motions to be Relieved as Counsel

On October 14, 2021, Davis’s attorney, Robert Kuczynski, Esq., moved to withdraw as counsel. Emergency Motion to Withdraw as Counsel and Stay Trial (“Kuczynski Motion”). Therein, Attorney Kuczynski stated that Davis had “terminated the attorney-client relationship and discharged undersigned counsel via telephone call,” and that there had been an irreparable breakdown in the attorney-client relationship. Kuczynski Motion, at 1. Further, he proffered that “Defendant’s threats, accusations, and disagreements regarding the upcoming trial ha[ve] rendered representation wholly impossible.” *Id.* at 2.

The Court granted the Kuczynski Motion by October 15, 2021 Order, and all scheduled dates were vacated. Charles Lockwood, Esq. was appointed as counsel by Order of October 27, 2021. Nine days later, on November 8, 2021, Attorney Lockwood moved to be relieved, noting that he had previously been appointed to represent Davis in two other matters and Davis had told him to withdraw. Motion to be Relieved as Appointed Counsel (“Lockwood Motion”), at 1. Attorney Lockwood stated that Davis “harbored a strong personal dislike and distrust of the undersigned, making it impossible...to fairly and effectively represent Mr. Davis.” *Id.* at 1-2.

The Court granted the Lockwood Motion and appointed Lee Rohn, Esq. as counsel on November 30, 2021. Two weeks later, on December 15, 2021, Attorney Rohn moved to be relieved, providing an affirmation from another attorney in her office to whom Davis had made physical threats via telephone. Motion to be Relieved as Appointed Counsel (“Rohn Motion”), at 2. Attorney Rohn further stated:

Defendant, Davis, is known to be violent, and a threatening human being, with violent tendencies. Undersigned has an all-female staff, except one male, who are all worried about having to deal with Jimmy Davis as a client. That staff previously dealt with Defendant when he was represented by Attorney [Mary Faith] Carpenter, and he was combative, and difficult to deal with. The undersigned and her office staff are fearful of the defendant.

Id.

The Court granted the Rohn Motion and appointed Kye Walker, Esq. as counsel on December 21, 2021. A month later, on January 21, 2022, Attorney Walker moved to withdraw, stating that starting a week after she was appointed, Davis called her office “almost every day and sometimes more than once per day,” and made threatening remarks. Ex Parte Motion for Leave to Withdraw as Counsel (“Walker Motion”), at 1. Attorney Walker further stated:

The undersigned’s staff already feels harassed and threatened by Davis. In addition, a key member of the undersigned’s litigation team had prior interactions with Davis when she worked at another office and Davis was similarly abusive and threatening to the staff of that office...

....

...Finally, a close friend...who interacted with Davis through his employment at the Superior Court, consulted with the undersigned with regard to a situation in which Davis was considered a possible threat to him and his family...The undersigned does not feel safe

having any interactions with Davis and needs to shield and protect her staff from any further abusive phone calls and threats.

Id. at 2.

The Court granted the Walker Motion and appointed Shari D'Andrade, Esq. as counsel on February 10, 2022. A day later, Attorney D'Andrade moved to withdraw by February 11, 2022 Motion to be Relieved as Appointed Counsel ("D'Andrade Motion"). Attorney D'Andrade stated that in her former position as General Counsel to the Bureau of Corrections, she had visited the Alexander A. Farrelly Complex and Davis had physically threatened her, requiring a BOC officer to intervene. *Id.* at 1. She proffered that "because of that incident and Defendant's violent nature, specially trained corrections officers closely guarded the undersigned in the event she had to tour the unit where Defendant was housed." *Id.* She also provided an Affirmation and further argued that because she "knows Defendant to be combative and violent," she could not competently represent him. *Id.*

The Court granted the D'Andrade Motion and appointed Jerry Evans, Esq. as counsel on March 10, 2022. Five days later, Attorney Evans filed his March 15, 2022 Stipulation for Substitution of Appointed Counsel ("Evans Stipulation"), approved by March 18, 2022 Order, stipulating to the appointment of Dwayne Henry, Esq. as counsel. Attorney Henry represented Davis until May 4, 2022 when, citing a complete breakdown in communications and Davis's request that he move to be relieved, Attorney Henry filed his Motion to be Relieved as Counsel ("Henry Motion").

The Court granted the Henry Motion and appointed Michael Jurek, Esq. as counsel on May 10, 2022. Three days later, Attorney Jurek moved to withdraw as counsel by May 13, 2022 Motion to Withdraw as Appointed Counsel, citing a lack of criminal practice experience and advising that because he was based in Ohio, he would be burdened by the appointment ("Jurek Motion").

Finding that the appointment was likely to result in an unreasonable financial burden on counsel, the Court granted the Jurek Motion to be relieved pursuant to V.I. S. Ct. R. 211.6.2(b) by Order of May 19, 2022, and the Court appointed Scot McChain, Esq. as counsel by Order of May 27, 2022. Attorney McChain filed his July 1, 2022 Motion to be Relieved as Counsel ("McChain Motion"), providing a voicemail recording wherein Davis told Attorney McChain that he believed the attorney would cause him to go to jail and instructed him to withdraw.

The Court granted the McChain Motion and appointed Jeffrey Moorhead, Esq. as counsel on August 1, 2022. Attorney Moorhead moved to withdraw by August 15, 2022 Motion to Withdraw as Attorney of Record ("Moorhead Motion"), noting that as the brother of then-Superior Court Judge Robert Molloy, he was privy to "numerous text messages from jail to a Superior Court employee" in 2016, which threatened Judge Molloy and his family with physical harm. Moorhead Motion, at 1. Attorney Moorhead further stated:

In his threats, Defendant indicated that he knew exactly where Judge Molloy resided. Defendant's threats were taken very serious and extra security had to be provided to

Judge Molloy and his family by the Superior Court before Defendant was transferred to jail on St. Thomas. Upon learning about the threats, the undersigned immediately contacted Defendant in jail and engaged in a heated conversation with him during which disrespectful and inappropriate language was used by Defendant...the undersigned has NO DESIRE to ever see Defendant again much less represent him in this or any other matter.

Id. at 1-2 (emphasis in original).

The Court granted the Moorhead Motion by Order entered August 18, 2022 and appointed H.A. Curt Otto, Esq. as counsel on August 19, 2022. Attorney Otto moved to withdraw as counsel by August 22, 2022 Motion to be Relieved as Counsel (“Otto Motion”), informing the Court of his belief that Davis was responsible for the theft of Christmas presents in his office in 1996, when Attorney Otto had previously been appointed to represent Davis. Otto Motion, at 1.

The Court granted the Otto Motion by Order entered August 23, 2022, and appointed Howard Phillips, Esq. as counsel by Order Appointing Counsel on August 26, 2022. Attorney Phillips remains counsel for Defendant.

II. October 26, 2022 Hearing

Ahead of the October 26, 2022 hearing on Defendant’s Renewed Motion, on October 24, 2022, Davis filed an Addendum to Motion for Release (“Addendum”) to incorporate a recent Virgin Islands Supreme Court case, *Moran v. People*. *Moran* held that “the Superior Court committed error to the extent that it denied Moran’s motions [to modify conditions of pretrial release] based on a belief that individuals charged with what it believes to be serious crimes must always be subject to *travel restrictions* and should be denied permission to leave the Virgin Islands for that reason alone.” 2022 VI 9, ¶¶ 12-13 (V.I. 2022) (emphasis added).

Davis proffers that “the same rule would apply to the many past prosecutor charging decisions the Attorney General’s office has made implicating Davis, the vast majority of which were either dismissed or resulted in non-convictions,” and that “after *Moran*, the number of time[s] Davis has been arrested or charged should have no bearing on his bail or conditions of release.” Addendum, at 1, 3. Davis further posits that the rule established in *Moran* regarding travel restrictions should apply to bail “and to imposition of conditions of release other than travel.” *Id.* at 5. He also asks that his “long held ‘bad’ reputation among court staff and corrections officers...not dictate or unduly influence the Court’s decision.” *Id.* at 8. Davis states:

The elephant in the room is that Davis has been a thorn in the side of many in the criminal justice system to include court clerks and corrections officers, and he has allegedly made unseemly and unacted upon threats to others but his verbal conduct towards others involved in the criminal justice system, to include his own appointed attorneys[,] under *Moran* should have no bearing on bail or conditions or release.

Id.

Lastly, he argues:

Davis’s scant history of fleeing from the VIPD—with whom he has had a lengthy and contentious history over the past 25 years—on two or three occasions is relatively limited and his reaction to the police may well have been motivated by reasons other than an unwillingness to appear before this Court to defend himself.

Id.

At the October 26, 2022 hearing, Davis asked to be released on his own recognizance or, alternatively, for cash bail to be set at an amount that he as an indigent defendant could realistically be able to post. Davis offered his sister, Jacqueline Davis Wathey, who appeared and gave testimony, as a potential third-party custodian for “my little brother.” She stated that Davis has never been violent with her or her family, and emphasized that he “just talks a lot.” She testified that Davis was able to follow their parents’ rules growing up, and that she did not have concerns about Davis potentially coming to live with her. She indicated her belief that Davis needs counseling and agreed to try to arrange for counselling if Davis were released into her third-party custody. Lastly, she emphasized that their mother is very sick, and that she is the only one to care for her. She conceded, however, that if Davis were to be released, she would not be at home from 8:00 a.m. - 5:00 p.m. to supervise him while she was at work.

The People called VIPD Commander Naomi Joseph to testify. She stated that, in her opinion, if Davis were to be released, she would be concerned for the safety of the community. She noted her knowledge of prior high-speed chases involving Davis, stated that he does not follow court orders, and provided that she has heard about, but not witnessed, incidents in which Davis was violent toward police officers. She testified that she does not know Davis’s sister, although she has met his mother, grandmother, and brother. She also told the Court that VIPD is stretched thin and does not have the extra resources necessary should they have to track down Davis and arrest him again. She testified to her opinion that Davis’s family “has no control over him, he does what he wants and if you resist him he will fight.” Asked on cross-examination whether she could provide specific examples of Davis’s failure to comply with court orders or release conditions, Commander Joseph replied that Davis needed to be restrained in an unspecified District Court proceeding to keep him quiet, and that “if memory serves me correctly, he was supposed to stay at one location [on pretrial release] but was at another.” She restated VIPD’s position that Davis’s grandmother would not permit Davis to stay in her home. Lastly, she testified that she was unaware of any times when Davis left the island in violation of a court order.

III. Davis’s Record of Arrests and Convictions

The record before the Court indicates that prior to the instant matter, Davis has been arrested 31 times.¹⁶ These arrests include three separate charges for aggravated assault and battery upon an officer, three charges for assault, one charge for attempted murder, one charge for

¹⁶ As to four of his arrests, Davis was charged with multiple offenses, later severed, resulting in a total of 35 separate matters for which Davis has been arrested. The People asserted that Davis has been arrested “approximately” 38 times and convicted in 8 cases. First Opposition, at 2.

burglary, one charge for contempt of court, three charges for possession of controlled substances, one charge for grand larceny, one charge for operating without a license, five charges related to unauthorized firearm possession and transport, one charge for rape, two charges for reckless endangerment, eight charges for robbery, including one for kidnapping, one charge for threatening a witness, one charge for unauthorized use of a vehicle, and one charge for unlawful sexual contact. In two cases no complaint was filed, and in one other case the prosecution dismissed nolle prosequi. Thirteen cases resulted in dismissal without prejudice, five cases were dismissed with prejudice. Davis was acquitted in two cases, and six cases have no known disposition.¹⁷

Six of Davis's arrests resulted in convictions, four of which were in federal court. On September 17, 1997, Davis pled guilty to unauthorized use of a vehicle and was placed on one-year supervised probation.¹⁸ On August 14, 2002, Davis was convicted of attempted murder and sentenced to 30 years imprisonment.¹⁹ On January 28, 2013, Davis was convicted of assault on a federal corrections officer and sentenced to 12 months imprisonment.²⁰ Davis was charged on March 4, 2013, with simple assault on a correctional officer, convicted and sentenced to 12 months incarceration.²¹ On March 16, 2017, Davis was found to have violated the terms of his probation and his supervised release was revoked in connection with his conviction of unlawful transport of firearms.²² Lastly, on April 12, 2019, Davis was convicted of simple possession of cocaine and aggravated assault and battery and sentenced to two years imprisonment.²³

LEGAL STANDARD

The Eighth Amendment to the United States Constitution, applicable to the Virgin Islands, and Section 3 of the Revised Organic Act of 1954, both provide that "excessive bail shall not be required." When setting bail, a court "shall impose the least restrictive...conditions of release that will reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process." V.I. Crim. R. 5-1(b). "When a court resolves a motion to modify bail and release conditions, it must make an individualized determination in order to ensure that the bail is not excessive." *Rieara v. People*, 57 V.I. 659, 667 (V.I. 2012). "The fact that one judge has set bail or pretrial release conditions a certain way should have no bearing on a subsequent motion to modify those conditions." *Moran*, 2022 VI 9, ¶ 18 (citing *Rieara*, 57 V.I. at 667).

An order establishing or modifying release conditions cannot be "based on 'a mere...recitation of relevant criteria,' but rather 'should clearly explain why those criteria support

¹⁷ Probable Cause Fact Sheet, at 31-58.

¹⁸ *Id.* at 32.

¹⁹ *Id.* at 36.

²⁰ *Id.* at 55.

²¹ The date of entry of judgment of conviction for this offense is unclear in the record.

²² *Id.* at 57.

²³ *United States v. Jimmy Davis*, no. 1:18-cr-00015, Judgment and Commitment (Mar. 15, 2020).

the ultimate bail amount or other release conditions.” *Davis*, 2022 VI 8, ¶ 11 (citing *Rieara*, 57 V.I. at 666). “[W]here a defendant’s new motion includes additional evidence or new and different proffers...the court should [] provide reasons for retaining the bail conditions as initially set” or, by implication, for the modified conditions. *Rieara*, 57 V.I. at 667.

In reviewing a motion for modification, a court may consider whether the defendant is a flight risk or a danger to the community, “as well as other relevant factors.” *Davis*, 2022 V.I. 8, ¶ 10 (citing *Tobal v. People*, 51 V.I. 147, 161 (V.I. 2009)). While the Court “is not precluded from imposing bail that a defendant cannot afford to post, a defendant’s indigence...is certainly a relevant consideration.” *Id.* Proceedings “such as considering whether to release on bail or otherwise” are exceptions to which the Virgin Islands Rules of Evidence do not apply. Nonetheless, the decision must be made based on evidence found in the record. V.I.R.E. 1101(d); *Davis*, 2022 VI 8, ¶ 12 n.2.

“Whether bail is set at a level to adequately ensure the defendant’s presence at court depends on whether the defendant is a flight risk.” *People v. Rionda*, 74 V.I. 258, 267 (V.I. Super. 2021) (citing *Tobal*, 51 V.I. at 156-57). Factors that may be considered when evaluating whether a defendant is a flight risk include:

Potential length of the defendant’s sentence if convicted, prior use of false identities or deceptive means by which the defendant may evade government detection if attempting to flee, the risk of retaliation from others which incentivizes the defendant to flee, the defendant’s citizenship status, the defendant’s employment status, the defendant’s history of travel, the defendant’s ties to the jurisdiction, and whether the defendant has considerable contacts or ties to family members outside of jurisdiction.

Id. at 267-68 (internal citations omitted).

Adequacy of bail also depends on whether the defendant is a danger to the community. *Id.* at 270. Factors include, but are not limited to, “the nature of the charges, the defendant’s criminal history, the defendant’s history of violence, a prior court order to attend anger management, and the defendant’s history of mental illness.” *Id.* at 270-71 (internal citations omitted). *But cf. People v. Simmonds*, 48 V.I. 320, 329 (V.I. Super. 2009) (defendant is presumed innocent until proven guilty, thus pending charges cannot necessarily determine danger to the community).

DISCUSSION

The record before the Court demonstrates that *Davis* is entitled to modification of bail. The record is unclear as to whether the increase in *Davis*’s bail amount—set at \$100,000 at the time of arrest—was increased to \$1,000,000 by the magistrate judge at the advice of rights hearing or at some other time. Regardless, the Court finds that \$100,000 bail is insufficient in this case, but that \$1,000,000 is excessive. As explained below, and noting *Davis*’s indigency, bail will be modified and set at \$250,000.²⁴

²⁴ See *Davis*, 2022 V.I. 8, ¶ 10 (a defendant’s indigency is relevant, but not dispositive).

I. Risk of Flight/Assuring Defendant's Presence at Court

When making a bail determination, a court must ensure that it is “set at a level to adequately ensure the defendant’s presence at court.” *Rionda*, 74 V.I. at 267. Factors the Court may consider that are relevant to this matter include: potential length of sentence if convicted, prior use of false identities, risk of retaliation from others which incentivizes flight, Defendant’s citizenship status, employment status, history of travel, ties to the jurisdiction, and whether Defendant has considerable contacts outside the jurisdiction. *See id.* at 267-68.

Here, the potential sentence for a first-degree rape conviction is significant, ranging from 10 to 30 years. This factor increases the risk that Defendant may not appear, thus weighing in favor of a higher bail amount. There is evidence in the record to indicate that Davis has used aliases in the past.²⁵ However, there is no evidence that he has ever used these aliases in an attempt to flee the jurisdiction or to evade court appearances. As such, this factor weighs in favor of reducing the current bail amount. Regarding risk of retaliation from others, Davis refers to his “contentious history” with VIPD. Addendum, at 8. He claims that his reactions to police may well have been motivated not by “an unwillingness to appear” in court, but because he may fear VIPA retaliation. At the October 26, 2022 hearing, Davis’s counsel reiterated his position that Davis simply has had a bad relationship with police. The fact that Davis may have a bad relationship with police is considered neutral as a factor, in that he may attempt to flee from police to avoid retaliation, or the perceived threat of potential retaliation may dissuade him from seeking to flee the jurisdiction or evade court appearances.

As a St. Croix native and lifetime resident, Davis is a United States and Virgin Islands citizen with numerous family members, including his parents, who are residents of St. Croix. First Motion, at 3. This factor weighs in favor of reducing the current bail amount because it decreases the likelihood that Davis would leave the jurisdiction. Davis is unemployed, but because the record demonstrates that he has been in and out of BOC and federal custody for much of his adult life, the Court does not find that his lack of employment weighs against assuring his presence at court. This factor also weighs in favor of reducing Davis’s current bail.

The record supports Davis’s contention that he has strong ties to the jurisdiction, and there is no evidence in the record to indicate that Davis has ever attempted to flee the island of St. Croix. The Court has previously indicated that it does not consider Davis a flight risk from the island. Transcript, at 12. However, the Court remains concerned about Davis’s appearing before the Court when scheduled and prospects for his compliance with Court orders, especially in light of a series

²⁵ *See* April 8, 2020 Probable Cause Fact Sheet, at 32, 38, 39, 47 (VIPD reports identify Davis’s nickname/alias as Bulldog); *see also* 44 (NCIC report provides that Davis has other aliases, including Jack Bailey). In the VIPD Supplemental Report relating to the December 12, 2017 assault charge against Davis, the detective reported that on February 6, 2018 Davis used the alias “Micheal Rivera” during a telephone inquiry to the Superior Court clerk’s office, during which he cursed and threatened the clerk. *See* First Opposition, Exhibit A.

of events related to a federal case against Davis that took place during the week prior to the incident giving rise to the instant matter.

Davis argues that “for all his arrests and convictions there is no record before this Court that Davis has any ‘failures to appear’ for court or that he violated any condition of release prompting revocation and return to custody.” Addendum, at 2. However, the record reflects that Davis was released from federal custody on March 27, 2020, and by March 31, 2020, Davis had an active federal warrant against him for failure to report to probation.²⁶ Just three days later, on April 3, 2020, the alleged rape at issue in this case took place.²⁷ Not only does this series of events demonstrate that Davis was in defiance of an order of the federal court when he committed the instant offense, but it decreases the Court’s confidence that he will appear before this Court in future proceedings in this matter.

II. Danger to the Community

Davis is correct that the prosecution’s decision “to charge the defendant with a serious crime—*standing alone without more*—should have no bearing on the amount of bail or the conditions of pretrial release.” *Moran*, 2022 VI 9, ¶ 17 (emphasis in original). Indeed, it is well-established both in caselaw and as a foundational principle of criminal law that a defendant is innocent until proven guilty and, as such, the charges a defendant is facing cannot be the *sole* basis for a court’s decision regarding pretrial release. Davis is also correct that “the purpose of bail is to ensure a defendant appears at trial,” but he ignores another purpose of bail described in Virgin Islands Rule of Criminal Procedure 5-1(b): reasonable protection of the community. *See* Addendum, at 2.

Even though the nature of the charges is not the sole factor the Court examines, the charges may hold some place in the analysis. *See Rionda*, 74 V.I. at 270. Here, because the record is replete with other information to consider, the Court will take the nature of the charges into consideration for the purpose of acknowledging that the Bail Chart sets bail for first-degree rape at \$100,000, a fact that weighs in favor of lowering Davis’s current \$1,000,000 bail. That fact does not, however, establish that bail of \$100,000 is sufficient in the context of the facts of this case.²⁸

The record indicates that Davis was previously ordered by courts to attend anger management, to participate in inpatient or outpatient substance abuse counseling, and to be referred for mental health treatment while incarcerated.²⁹ These previous orders weigh in favor of Davis’s bail being set higher than \$100,000. Although these orders do not dispositively establish that Davis suffers from anger issues or mental illness, they do demonstrate that other courts have been

²⁶ *See* Emergency Motion, at 3; Probable Cause Fact Sheet, at 61.

²⁷ Probable Cause Fact Sheet, at 1.

²⁸ The Court’s acknowledgement of the Bail Chart is not meant to be an endorsement of its use as a judicial tool. Rather, it is only used as a means of comparison.

²⁹ Probable Cause Fact Sheet, at 10, 20, 57.

concerned about those issues, and that they may impact whether Davis appears in court when ordered or whether he poses a physical risk to persons in the community. In addition, Davis's sister testified at the October 26 hearing that she believes that Davis needs counseling.

Davis's record of arrests and convictions also supports a higher bail amount. Although he has been convicted of only a minority of the dozens of offenses for which he has been arrested and charged, four of his six convictions are for violent crimes: attempted murder, two assaults on corrections officers, and unlawful transport of firearms.

Further, Davis's contention that under *Moran* his actions towards those in the criminal justice system, verbal or otherwise, should have no bearing on his conditions of release is misguided. *See* Addendum, at 8. The issue in *Moran* was whether the seriousness of the crime charged, "standing alone without more," was sufficient to impose travel restrictions on a defendant who had not yet been convicted. *See* 2022 VI 9, ¶ 17. Because Davis's threats to court personnel and multiple court-appointed attorneys are well documented in the record, the Court properly considers them. Nevertheless, these verbal threats reflected in the record, while serious and not taken lightly, have not materialized into physical violence. Indeed, at the October 26 hearing Davis's sister testified that Davis "just talks a lot."

III. The Record Before the Court Supports Modification of Bail

The Virgin Islands Supreme Court has admonished that an order modifying a defendant's conditions of release cannot simply recite the relevant criteria but must clearly explain why such criteria ultimately support the Court's determination. *See Davis*, 2022 VI 8, ¶ 11. For example, in *People v. Cozier*, the court looked to the bail amount set in other courts in this jurisdiction for similar crimes. 2022 V.I. LEXIS 47, at *16 (V.I. Super. May 17, 2022). Davis points to events that gave rise to setting \$500,000 bail for a rape defendant in *People v. Rodriguez*, 2018 V.I. LEXIS 5 (V.I. Super. Jan. 16, 2018). *See* First Motion, at 3. In *Rodriguez*, the Superior Court found that \$500,000 bail was not excessive for a defendant "charged with allegedly sexually assaulting and carjacking a female at gunpoint after striking her vehicle and causing it to stop." *Id.* The Court agrees that this case is distinguishable from *Rodriguez*, in that aggravating factors of gun violence, weapons, or car jackings are not present.

Where a defendant provides "additional evidence or new and different proffers," the court must explain why that new information produces a modified outcome. *Riara*, 57 V.I. at 667. Since the Court's last ruling Davis has provided an Addendum to his Renewed Motion, and has presented his sister, Jacqueline Davis Wathey, as prospective third-party custodian, who testified that Davis did not pose a risk of noncompliance with release conditions, but "just talks a lot."


Viewing the totality of the record in assessing Davis's potential risk of flight and danger to the community, the Court finds that the present bail set at \$1,000,000 is excessive and will grant the Renewed Motion. By separate Order entered herewith, bail will be reduced to \$250,000, together with conditions of pretrial release set forth in the accompanying Order.

Dated this 29 day of November, 2022.


DOUGLAS A. BRADY, JUDGE

ATTEST:

TAMARA CHARLES
Clerk of the Court

By: 
Court Clerk Supervisor
11/29/2022

FILED

November 29, 2022 05:22 PM

SX-2020-CR-00098

TAMARA CHARLES
CLERK OF THE COURT

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

PEOPLE OF THE VIRGIN ISLANDS,
Plaintiff,

v.

JIMMY DAVIS,
Defendant.

SX-2020-CR-00098

CHARGES: RAPE FIRST DEGREE;
UNLAWFUL SEXUAL CONTACT FIRST
DEGREE; BURGLARY FIRST DEGREE;
ASASULT FIRST DEGREE; HOME INVASION

ORDER

THIS MATTER is before the Court on Defendant's Emergency Motion to Return to St. Croix ("Motion to Return"), filed October 4, 2022, and Defendant's Emergency Motion for Order Directing Production of Evidence or Implement an Investigation ("Motion for Production"), filed November 15, 2022. Davis was arrested on April 6, 2020, and remanded to the John A. Bell Correctional Facility ("Bell") on St. Croix. Sometime before March 13, 2021, Davis was transferred to the Alexander A. Farrelly Complex ("Farrelly") on St. Thomas. *See* First Emergency Motion to Return Defendant to St. Croix (Mar. 18, 2021). The Court held hearings on the Motion to Return on October 26, 2022 and November 9, 2022. For the reasons set forth below, both of Defendant's Motions will be denied.

BACKGROUND

In his Motion to Return, Davis argues that his return to Bell is necessary to protect his constitutional right to confidential communications with his attorney.¹ Motion to Return, at 2. He claims that the St. Thomas and St. Croix facilities "appear to have different policies and actual practices related to [] confidential inmate conferences, mail, and written material," providing a declaration by counsel and an email exchange between counsel and a Bureau of Corrections ("BOC") officer at Farrelly as exhibits in support. *Id.* In the email exchange, counsel expressed concern that Davis had not received attorney-client correspondence in a timely manner and requested Davis's inmate number. Instead, the BOC employee advised counsel that written correspondence could be sent to Davis by email using a BOC email address. *See* Declaration of Counsel Howard L. Phillips ("Declaration") (Oct. 4, 2022). Davis argues that such a requirement "reflects an institutional lack of concern for Davis's confidentiality." Motion to Return, at 5.

Counsel also attests that he was able to see a "surveillance or recording camera" in the corner of the room at Farrelly in which Davis took a videocall with him, and that he could hear other voices during the conference. Declaration at ¶ 20; Motion to Return, at 5 n.4. Overall, Davis argues that his transfer to Farrelly has "unconstitutionally impaired his ability to communicate" with his attorney, and that "BOC

¹ Davis also argues that his transfer from Bell to Farrelly was retaliatory, based on an incident where he admittedly threw feces at a medical employee at Bell. The Court finds that Davis's "attempt[] to defend himself by discouraging the staff member from forcing him to take unwanted and unnecessary medication" does not qualify as constitutionally protected conduct under the test cited by Davis, and therefore does not reach this argument. Motion to Return, at 14 (citing *Mitchell v. Horn*, 318 F.3d 523, 530 (3d Cir. 2003) ("a prisoner alleging retaliation must show (1) constitutionally protected conduct, (2) an adverse action by prison officials 'sufficient to deter a person of ordinary firmness from exercising his [constitutional] rights,' and (3) a causal link between the exercise of his constitutional rights and the adverse action taken against him.")) (internal citations omitted)).

employees not wanting to deal with Davis does not outweigh his constitutional entitlement to effective assistance of counsel.” Motion to Return, at 15.

At the hearing held October 26, 2022, the People expressed no opinion as to Davis’s transfer between the two facilities, but noted their understanding that there might be safety and logistical concerns raised by the requested transfer. Riel Faulkner, Assistant Director for Administration and Compliance, Warden Ben Adams from Bell, Warden Hector Rivera from Farrelly, and Everett Hansen, Assistant Director for Operations, were present on behalf of BOC.² Assistant Director Faulkner testified that Davis was transferred to St. Thomas out of BOC’s legitimate concern for his safety, as well as the safety and well-being of the facility and other inmates. He noted that BOC has considerable procedures in place to ensure that inmates in both facilities receive legal mail unencumbered. He also emphasized that BOC policy expressly forbids BOC employees from opening inmates’ legal mail, and referred to the interaction between the BOC employee and counsel as an unfortunate miscommunication. Assistant Director Faulkner also stated that BOC personnel are not permitted to be in the room during a phone call between an inmate and counsel, and that they stay outside with “reasonable distance.” In response to the Court’s questioning, Assistant Director Faulkner gave assurances that there would be no future eavesdropping on Davis’s communications with counsel, but proffered that he had no knowledge that such an event had occurred previously. He referred to the confidential access BOC assures to inmates and their attorneys as “sacrosanct.”

Davis’s counsel inquired whether BOC’s concern for Davis’s safety stemmed from his interactions with other inmates or with corrections officers. Assistant Director Faulkner replied that the concerns stemmed from relationships and conflicts between Davis and other inmates. The Court questioned whether Davis being segregated from the general inmate population could alleviate the concerns, to which Warden Adams stated that it would not. When counsel noted that he had found no mention of Davis having issues with other inmates in the record, Warden Adams replied that there was credible information that for facility security reasons would not be set forth on the record in this matter. Counsel reiterated his concern that Davis’s move to St. Thomas was retaliatory, prompting Assistant Director Faulkner to emphasize that BOC staff are forbidden from retaliating against inmates. The Bureau expressed its position that BOC has wide discretion on how to run its facilities and place inmates, and that it does so in a manner consistent with constitutional parameters.

The Court ordered counsel to confer with each other and with BOC in advance of a second hearing set for November 9, 2022.³ At that hearing, Davis’s counsel questioned Warden Rivera about alleged incidents that took place between Davis and various corrections officers at Farrelly. Both Warden Rivera and Assistant Director Faulkner acknowledged that Davis has raised various issues regarding staff and has filed multiple incident reports. Counsel reiterated Davis’s position that he is being retaliated against, agreed that the concerns Davis raised could take place at either Bell or Farrelly, and argued that the existence of such similar circumstances in each facility weighs in favor of returning Davis to Bell. Davis’s counsel proffered that the issues Davis has continued to experience with corrections officers are impacting his ability to communicate with counsel, and that he and Davis have barely been able to discuss the case itself because “all [they] talk about is what the officers are doing to him.” The Court advised the parties that it

² BOC currently does not have counsel.

³ The hearing was only to be held if the parties were unable to reach an agreement without further judicial involvement. Defendant reported on November 7, 2022 that no agreement regarding Davis’s placement was achieved.

relied upon the veracity of the sworn testimony of BOC representatives regarding assuring the confidentiality of attorney-client communications. The Court also advised that it would be favorably inclined to grant any forthcoming request of counsel to travel to St. Thomas to meet personally with Davis.

In his Motion for Production, Davis requests that the Court order BOC to “produce any evidence it has that shows that Davis’s safety will be in jeopardy if he is returned to Bell,” or alternatively to “direct BOC to conduct an investigation” regarding the same. Motion for Production, at 1. He argues that “without such evidence in the record a reviewing court cannot ascertain whether denial of Davis’s Motion violated his right to due process or not.” *Id.* at 3 n.2. Davis therefore argues that if BOC cannot produce such evidence, “it is reasonable to suspect specious and *unconstitutional retaliation* against Davis by a governmental agency.” *Id.* at 3 (emphasis in original).

DISCUSSION

The Bureau of Corrections is “an independent bureau within the Executive Branch of the Government” of the Virgin Islands, which retains “general control over persons arrested, detained, or sentenced by a court of law in accordance with the laws applicable to correctional institutions or rules properly promulgated.” 5 V.I.C § 4503(a); 3 V.I.C. § 375(a). The Bureau is managed by the Director of Corrections, who “may transfer an inmate from one institution to another, consistent with the commitment and in accordance with treatment, training, and facility needs.” 5 V.I.C. § 4505. Further, “commitment to institutions within the jurisdiction of the Bureau shall be to the Bureau, not to a particular institution.” *Id.*

The Sixth Amendment to the United States Constitution, applicable to the Virgin Islands by Section 3 of the Revised Organic Act of 1954, provides inmates with the right to seek and receive assistance of counsel. A court must nonetheless “balance a prison institution’s interest in safe and secure operations with an inmate’s expectation of engaging in private communication with his counsel.” *Simon v. Mullgrav*, 2018 V.I. LEXIS 97, at *30 (V.I. Super. Sept. 19, 2018). “Prison officials are not free to promulgate regulations or engage in practices that unreasonably deny an inmate unmonitored access to his attorney,” and any practice that “unjustifiably obstruct[s] such access” is invalid. *Id.* at *31. Such practices are subject to rational-basis scrutiny, meaning they must be “reasonably related to a legitimate penological interest” to be upheld. *Id.* at *30. Although the inmate “bear[s] the ultimate burden of showing that the...policy is unconstitutional, it is the [] officials’ burden to demonstrate that a rational connection exists.” *Simon v. Mullgrav*, 2021 U.S. Dist. LEXIS 73820, *30-31 (D.V.I. Apr. 16, 2021).

Here, the statutory language employed by the Legislature indicates intent to provide BOC with significant discretion over management of its internal affairs and facilities. Further, because “commitment to institutions within the jurisdiction of the Bureau” is considered commitment to the Bureau itself, rather than to a particular institution within the Bureau, the Bell and Farrelly facilities are, in essence, indistinguishable under the statute. 5 V.I.C. § 4505. Nevertheless, because Davis has raised constitutional concerns, the Court must balance BOC’s interest in safety and security against his allegations regarding confidential attorney-client communications.

It is not a court’s place to dictate how a bureau within the executive branch manages its internal affairs, and the Court takes BOC’s proffers, made under oath at the hearings, at face value. BOC was adamant that communications between inmates and their attorneys are “sacrosanct,” and acknowledged that an employee telling Davis’s counsel to submit his legal mail via a BOC email address was an unfortunate miscommunication, not an intentional attempt to deprive Davis of confidential communications with his attorney. Counsel has admitted that the same issues that have arisen at Farrelly could arise at Bell. Because BOC has provided assurances that Davis will be able to communicate confidentially with counsel at

Farrelly, BOC's decision to transfer Davis to that facility in the interest of safety and security outweighs Davis's desire to return to Bell. To the extent that BOC falls short in its pledge to provide constitutionally protected means for confidential communications between Davis and counsel, the matter may be revisited.

Regarding the Motion for Production, the Court's reticence to involve itself in BOC's affairs applies with equal, if not greater force. Davis is, in essence, asking the Court to require that BOC produce the credible evidence which Warden Rivera testified could not be provided for facility security reasons. Security for inmates and BOC personnel is clearly "a legitimate penological interest" consistent with BOC's general control over correctional institutions and persons detained. *Simon v. Mullgrav*, 2018 V.I. LEXIS 97, at *30; 3 V.I.C § 375(a). Further, for this Court to order BOC to investigate its own internal affairs would be contrary not only to BOC's well-established autonomy, but also to basic separation of powers principles.


While not dispositive to the denial of this Motion for Production, the cases cited by Davis in support of his argument that courts "should not rely solely on the veracity of governmental agency representations" are wholly unrelated to the matter at hand. Motion for Production, at 2 (citing, e.g., *United States v. Pileggi*, 361 F. App'x 475, 480 (4th Cir. 2010) (case involving diplomatic assurances made for a defendant extradited from Costa Rica, holding that "a due process violation is established only if the defendant shows that the court relied on materially false information and that the information was demonstrably the basis for the challenged sentence"). As with the Motion to Return, should Davis be able to provide additional information to the Court regarding his belief that the evidence referenced by Warden Rivera does not exist, the matter may be revisited. Motion for Production, at 3.

Overall, Davis has not met his burden to show that BOC has "unjustifiably obstruct[ed]" his access to counsel or that the information proffered by BOC under oath to the Court was "materially false." *Simon v. Mullgrav*, 2018 V.I. LEXIS 97, at *31; *Pileggi*, 361 F App'x at 480. In light of the foregoing, it is hereby:

ORDERED that Defendant's Motion to Return is DENIED without prejudice; it is further

ORDERED that Defendant's Motion for Production is DENIED as moot.

SO ORDERED this 29 day of November, 2022.

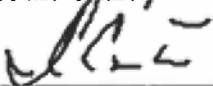


DOUGLAS A. BRADY, JUDGE

ATTEST:

TAMARA CHARLES

Clerk of the Court

By: 

Court Clerk Supervisor
11/29/2022

FILED

November 29, 2022 05:19 PM

SX-2020-CR-00098

TAMARA CHARLES
CLERK OF THE COURT

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

PEOPLE OF THE VIRGIN ISLANDS,
Plaintiff,

vs.

JIMMY DAVIS,
Defendant.

SX-2020-CR-00098

RAPE FIRST DEGREE; UNLAWFUL
SEXUAL CONTACT FIRST DEGREE;
BURGLARY FIRST DEGREE; ASSAULT
FIRST DEGREE; HOME INVASION

ORDER

Pursuant to and for the reasons set forth in the Memorandum Opinion entered this date in this matter, it is hereby

ORDERED that Defendant's Renewed Motion for Modification of Bail is GRANTED. It is further

ORDERED that Defendant's bail is reduced to \$250,000, fully secured. It is further

ORDERED that, upon posting of the monetary bail, Defendant shall be released from the custody of the Bureau of Corrections, subject to the following conditions:

Conditions of Release

1. The Defendant will be released into the third-party custody of a suitable custodian, to be approved by the Court;
2. The Defendant shall reside with his third-party custodian at a residential address to be approved by the Court, subject to 24-hour house arrest **with** the use of an electronic GPS monitor; and may leave the residence **ONLY** to appear in court, meet with his attorney, or go to the hospital for emergency medical treatment;
3. The Defendant shall not violate any laws of the Territory of the Virgin Islands or the United States;
4. The Defendant shall not leave the island of St. Croix without the Court's written permission;
5. The Defendant shall not obtain a passport while on release, and must surrender any passport he now possesses;
6. The Defendant shall report to the Office of Probation by phone every Tuesday between the hours of **8:00 a.m.** and **4:00 p.m.** unless the Office of Probation provides otherwise;
7. The Defendant shall have no contact, direct or indirect, with any victim or witness in this case;
8. The Defendant shall remain in regular contact with his attorney in this matter;
9. The Defendant must appear in Court on each scheduled appearance date. It is further

ORDERED that violation of any one of the conditions listed above may subject the Defendant to revocation of release and immediate confinement pending trial. It is further

ORDERED that a copy of this Order be served upon Defendant, counsel for Defendant, the Office of the Attorney General, the V.I. Police Department, the Marshal's Office, and the Bureau of Corrections.

SO ORDERED this 29 day of November, 2022.



DOUGLAS A. BRADY, JUDGE

ATTEST:

TAMARA CHARLES

Clerk of the Court

By: 

Court Clerk Supervisor

11/29/2022

FILED

November 29, 2022 05:20 PM

SX-2020-CR-00098

TAMARA CHARLES

CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

District of St. Croix

**People of the Virgin Islands v.
Jimmy Davis**

Case Number: **SX-2020-CR-00098**
Charges: **14 V.I.C. 1701 - Rape 1st Degree**
14 V.I.C. 1701 - Rape 1st Degree
14 V.I.C. 1708 - Unlawful Sexual Contact 1st
Degree
14 V.I.C. 442 - Burglary First Degree

**NOTICE of ENTRY
of
Order**

To: <u>Amie M. Simpson, Esq.</u> <u>V.I. Police Department</u> 	<u>Howard Lee Phillips, Esq.</u> <u>Office of the V.I. Marshal</u> <u>Bureau of Corrections</u>
--	---

Please take notice that on **November 29, 2022**
a(n) Order Modifying Bail and Setting Conditions of Release
dated November 29, 2022 was/were entered
by the Clerk in the above-titled matter.

Dated: November 29, 2022

Tamara Charles
Clerk of the Court

By:



Iris Cintron
Court Clerk Supervisor

FILED

October 26, 2022 11:07 AM

SX-2020-CR-00098

TAMARA CHARLES

CLERK OF THE COURT

RECORD OF PROCEEDINGS

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

District of St. Croix

People of the Virgin Islands v. Jimmy Davis

Case Number: SX-2020-CR-00098

Charges: **14 V.I.C. 1701 - Rape 1st Degree**
14 V.I.C. 1701 - Rape 1st Degree
14 V.I.C. 1708 - Unlawful Sexual Contact 1st Degree
14 V.I.C. 442 - Burglary First Degree

Type of Case: Preliminary Hearing Traffic Case Juvenile and Domestic Relations

Date of Trial: **October 26, 2022** Start Time: 9:09 a.m. End Time: 11:03 a.m.

Defendant Appeared: Yes No

Warrant of Arrest issued for Contempt of Court: Yes No

Amount of Bail for Contempt of Court: **\$ 00.00**

Complaint Read to Defendant Defendant waived reading of Complaint

Defendant Pleaded: Guilty Not Guilty Preliminary Hearing

Witness Sworn: Yes No Witness Sequestered: Yes No

Defendant on Bail: Yes No Amount of Bail: **\$00.00**

ATTORNEY FOR PLAINTIFF

Amie M. Simpson, Esq.

ATTORNEY FOR DEFENDANT

Howard Lee Phillips, Esq.

WITNESS FOR PLAINTIFF

Riel Faulkner, BOC

Ben Adams, Warden, BOC, St. Croix

Hector Rivera, Warden, BOC, St. Thomas

Everett Hansen, Asst. Director Operations

Naomi Joseph, Commander, VIPD

WITNESS FOR DEFENDANT

Findings of Court: Defendant Guilty Defendant Not Guilty Discharged

Fine of: **\$0.00** Fine Suspended

Imprisonment of: _____ Imprisonment Suspended

Defendant placed on Probation Period of Probation: _____

Court appointed Attorney for Defendant: Yes No

Case Postponed: At request of Defendant By the Court

Case Postponed to:

Defendant in custody of the Department of Public Safety Case Compromised

Defendant given a warning by the Court: Yes No

Court Finds: Probable Cause Case referred to the District Court

Jury Trial Demanded: Yes No

Defendant's License suspended for a period of: _____

No License to be issued to Defendant until: _____

Respondent ordered to pay **\$00.00** per _____ Beginning: _____

Payments to be made to: Office of the Attorney General Cashier - Clerk's Office

Respondent made payment of **\$ 00.00** in Open Court

Juvenile committed to Youth Services Administration

Juvenile released to custody of Parent/Guardian Bail Forfeited Suspended Sentence Revoked

Complaint reduced/amended to: _____

Case Dismissed with/without prejudice by motion of Attorney General

Case Dismissed with/without prejudice by the Court

Disqualification of Judge

Clerk Notes

This matter came before the Court for a hearing on two (2) motions via zoom. The March 2021 Renewed Modification of Motion for Release, which was denied, reversed and remanded by the Supreme Court and the October 4, 2022 Emergency Motion for Defendant's return to John Bell Facility in St. Croix. Amie M. Simpson appeared for the People. Howard Phillips appeared for the Defendant. The Defendant appeared via zoom from the Bureau of Corrections. At the outset, the Court heard side bar discussions concerning the issues of allowing Defendant to return to the John Bell Facility. The Court agreed with both parties; however, deferred the issues to allow the attorneys to confer with each other and with BOC officials and come to an agreement. Riel Faulkner, BOC, Administration and Compliance and Ben Adams, Warden BOC stated their respective positions on the issues surrounding Defendant's return to the John Bell Facility. The Court emphasized that Defense counsel should have confidential and private communication with his client and there should be no meddling in

Davis-JA000137

the custodianship. The Court informed that if there is no agreement between counsel and the BOC officials, the matter will be heard on November 9, 2022 at 11:00 a.m. via zoom. Furthermore, the Court heard arguments from both parties on Defendant's Renewed Motion for Modification of Motion for Release. Defense counsel proposed a cash bail bond, use of an electronic monitor and Jacqueline Davis as a proposed third-party custodian, telephone number 786-812-2704. She is the sister of Defendant and resides at 816 Williams Delight. Jacqueline Davis was sworn and testified. She was examined by Defense counsel and cross examined by the People. Naomi Joseph, Commander, VIPD was sworn and testified. She was examined by the People and crossed examined by Defense counsel. The Court informed that it would take this matter under advisement.

Judge Magistrate Presiding: Hon. Douglas A. Brady
Judge

Tamara Charles
Clerk of the Court

Court Reporter: **Randall Belsvik**

By:



Tisha Laurencin
Court Clerk II

FILED

August 19, 2020

TAMARA CHARLES
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

PEOPLE OF THE VIRGIN ISLANDS

Plaintiff

vs.

JIMMY DAVIS

NO FIXED ADDRESS

Defendant

) **SX-20-CR-098**

)

) **CHARGE(S):**

)

)

) **RAPE IN THE FIRST DEGREE**

) **(2 COUNTS)**

) 14 V.I.C. § 1701 (2) (3)

) **UNLAWFUL SEXUAL IN THE FIRST**

) **DEGREE**

) 14 V.I.C. § 1708 (a) (1)

) **BURGLARY IN THE FIRST DEGREE**

) 14 V.I.C. § 442 (4)

) **ASSAULT IN THE FIRST DEGREE**

) 14 V.I.C. § 295 (3)

) **HOME INVASION**

) 14 V.I.C. § 475 (a) (2)

FIRST AMENDED INFORMATION

COMES NOW the People of the Virgin Islands, by Denise N. George, Esq., Attorney General, through Amie M. Simpson Esq., Assistant Attorney General, and charges that on or about April 3, 2020, while in the Judicial District of St. Croix, United States Virgin Islands, the following acts occurred.

COUNT ONE

JIMMY DAVIS, did perpetrate an act of sexual intercourse or sodomy with N. B., by force and when her resistance was overcome, to wit: forcibly inserting his penis into her vagina, in violation of Title 14 V. I. C. § 1701 (a) (2). **(RAPE IN THE FIRST DEGREE)**

COUNT TWO

JIMMY DAVIS, did perpetrate an act of sexual intercourse or sodomy with N. B., when her resistance is prevented by fear of immediate and great bodily harm which she believed would be inflicted upon her, to wit: forcibly removing her pants and underwear after she told him to stop, not allowing her to move and inserting his penis into her vagina, in violation of Title 14 V. I. C. § 1701 (a) (3). **(RAPE IN THE FIRST DEGREE)**

COUNT THREE

JIMMY DAVIS, did engage in unlawful sexual contact with N.B. by force or coercion, to wit: grabbing N. B., sucking on her breast, caressing her buttocks, thigh and vagina, in violation of Title 14 V. I. C. § 1708 (a)(1). **(UNLAWFUL SEXUAL CONTACT IN THE FIRST DEGREE)**

COUNT FOUR

JIMMY DAVIS, did, with an intent to commit an offense therein break and enter the dwelling house, building or structure of another, namely N. B., while she was present, assaulting her, to wit: entering N. B.'s apartment without her permission and grabbing her and forcibly pulling down her pants and underwear, in violation of Title 14 V.I.C. § 442 (4). **(BURGLARY IN FIRST DEGREE)**

COUNT FIVE

JIMMY DAVIS, with the intent to commit rape and/or sodomy, did assault N. B., to wit: bending her forward on the stairway and inserting his penis into her vagina, in violation of Title 14 V.I.C. § 295 (3). **(ASSAULT IN THE FIRST DEGREE)**

FILED

October 24, 2022 01:41 PM

SX-2020-CR-00098

TAMARA CHARLES
CLERK OF THE COURT

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

PEOPLE OF THE VIRGIN ISLANDS,

Plaintiff,

vs.

No. SX- 2020-CR-00098

JIMMY DAVIS,

Defendant.

JIMMY DAVIS' ADDENDUM TO MOTION FOR RELEASE

“[T]he fact that the prosecution chose to charge the defendant with a serious crime—*standing alone without more*—should have no bearing on the amount of bail or the conditions of pretrial release, *since doing so “would inject into our own system of government the very principles of totalitarianism”* which are antithetical to a free society by in effect *granting the prosecution the authority to set bail or release conditions through its discretionary charging decisions.* [Emphasis added]

Moran v. People 2022 VI 9, ¶17

I. Introduction

Jimmy Davis (“Davis”) submits this addendum to his initial motion for release to incorporate the Virgin Islands Supreme Court opinion in *People v Moran*. The Court clarified in *Moran* that the prosecution charging decision alone *should have no bearing on bail or release conditions as is done in “totalitarian” regimes.*

Davis submits that the same rule would apply to the many past prosecutor charging decisions the Attorney General’s office has made implicating Davis, the vast majority of which were either dismissed or resulted in non-convictions.

II. Argument

Moran stands for the proposition the *purpose* of bail is to ensure a defendant appears to trial, and importantly, that the seriousness of an offense charged cannot be the sole basis for setting bail and restrictive conditions. The prosecutor’s merely by its charging decision(s) cannot, should not, be permitted to set bail and conditions because that is inconsistent with criminal jurisprudence in a democracy.

The prosecutor’s opposition to Davis’ release relies on one (1) alleged “failure to appear” in federal Court, 18-CR-0015. In that District Court matter Davis was charged with possession of twenty-eight (28) grams of cocaine with intent to distribute and aggravated assault.¹ This prosecutor claims that “he [Davis] failed to report to the “proper authorities” as he knew he was required to do and that a revocation was set to September 2020.”²

Consequently, for all his arrests and convictions there is *no record before this Court that Davis has any “failures to appear”* for court or that he violated *any* condition of release prompting revocation and return to custody.

Here, as Davis’ former counsel correctly argued that there are no allegations concerning gun violence; Davis has resided on St. Croix his entire life; has strong generational family ties; and a third-party custodian is willing to take on that responsibility. In addition, and remarkably salient to the issue of his release pending

¹ People’s Opposition to Davis Motion for Release, pg. 4.

² Counsel has reviewed all 98 docket entries and found Davis was sentenced on 2/28/20. *No docket entry indicating a revocation or any other hearing related to a “failure to appear” in September 2020 or any other time was found.*

trial in this matter; upon learning of the warrant for his arrest on the instant charges Davis voluntarily surrendered to the police.³

It is axiomatic Davis has had many arrests over the past 25 years. That is important to the extent that he has had a *demonstrated history* of “appearing” for Court in other criminal matters.⁴

The People’s opposition is based in the main on reports that Davis attempted unsuccessfully attempt to elude the police on two three occasions. ⁵ The People opposes to his release because Davis has been arrested 38 thirty-eight times since he was 17 in 1995 and has been convicted eight times.

After Moran the number of time Davis has been arrested and charged should have no bearing on his bail or conditions of release. The only question is whether he will appear before this Court for trial,

Finally, the People argued in opposition that Davis is a flight risk because he failed to report to proper authorities, and that he did not provide a buccal sample for DNA testing and has multiple aliases.⁶ These “reasons” and that fact that Davis has nickname are clearly not clearly relevant to “flight risk.” There is no allegation that he used a false name to avoid prosecution. See “failed to report to proper authorities.” See FN 2, *supra*.

³ Def. Motion for Modification, 8/11/20, pg. 3.

⁴ *Id*

⁵ People’s Opp., pg. 2.

⁶ People’s Opp., pg. 4

A. The charged offense alone should not dictate bail or conditions of release.

The nature of the pending charge, standing alone, “*should have no bearing*” on bail or release conditions and definitely should not be determinative when considering the least restrictive conditions necessary to assure a defendant’s appearance.

The “should have no bearing” rule, promulgated by the Virgin Islands Supreme Court, is particularly salient in this case because *other the pending charge there are simply no articulable reasons* (e.g., verifiable failures to appear) *that would even suggest* that Davis would not appear before this Court for trial. Nothing.

The serious nature of offense charged alone is marginally relevant and should not drive the release conditions. The Supreme Court citing *Stack v. Boyle*, 342 U.S. 1, 4 (1951) edified that the fact that the prosecution chose to charge the defendant with a serious crime—*standing alone without more*—should have no bearing on the amount of bail or the conditions of pretrial release. [Emphasis added] *Moran v. People* 2022 VI 9, ¶17

The Court in *Moran* held the Superior Court judge erred to the extent he denied the modification motions based on a belief that individuals charged with “serious crimes” must always be subject to travel restrictions and should be denied permission to leave the Virgin Islands for that reason alone. *Id.* The judge gave no other reasons for denying Moran’s motion. *Moran* ¶19

Davis posits that the *Moran* rule applies bail and to imposition of conditions of release other than travel. *There must be some reason other than the seriousness of the charges and police allegations to justify continuing detention without reasonable bail; currently set at \$1,000,000.00.*

The allegations that Davis committed rape does not make him a flight risk. More on point, in the territory this allegation alone *should have no bearing* on the risk assessment whether Davis will appear for trial and whether the community will be reasonably protected.

This is exactly the type of argument that the Supreme Court warned resembled totalitarianism. Unless there is something else, opposition to Davis' motions for reasonable bail and conditions of release must fail.

1. The only purpose of bail and release conditions is to assure a defendant appears for trial.

There are no indicators that Davis is a risk of not appearing for trial. The purpose of pretrial release conditions is to assure that a defendant appears for court while *reasonably* protecting the community, **not** to save the government money (custodial cost) by placing the defendant under house arrest at his expense.^{7 8}

The Virgin Islands Supreme Court has opined:

It is well-established, in the Virgin Islands ..., that the purpose of bail and pretrial release conditions is not to punish the defendant, who is presumed innocent. Rather, *the primary purpose of bail is to assure the presence of the defendant for trial under such conditions that also*

⁷ As claimed by an AAG in *Moran* ¶3, *infra*.

⁸ A presumed innocent defendant pays for the electronic monitoring device or he remains in custody.

reasonably protect the community. Moran v. People, 2022 VI 9, ¶ 17 (2022) [Emphasis added]

“Any bail or *conditions of release that are not tailored to achieve the purpose of bail* are considered excessive and therefore unconstitutional.” *Id.*, citing *Rieara v. People*, 57 V.I. 659, 667 (2012) [Emphasis added]

[I]t is unconstitutional to use bail or other pretrial release conditions as a mechanism to punish the defendant in advance prior to conviction for crimes that may or may not have been committed. *Id.*, citing *United States v. Alston*, 420 F.2d 176, 179 (D.C. Cir. 1969).

In *Moran* the People charged the defendant, *inter alia*, with first-degree unlawful sexual contact and aggravated assault. The superior court’s pretrial release order directed that he not leave St. Croix without court permission. *Moran* ¶ 2

Moran filed a motion to travel. The prosecutor opposed the motion solely on the grounds that the defendant was facing serious charges by arguing:

“[t]he rationale for *pretrial release is to reduce the custodial burden on the judicial system*,” that “[p]retrial release does not mean that a criminal defendant's life while awaiting disposition of the criminal matter is business as usual” ... booking a summer vacation *after being arrested and charged with various serious felonies* ... indicates a fundamental lack of appreciation for the judicial process and [sends] a message that Mr. Moran is above the law,” [Emphasis added]

Moran ¶ 3

The trial judge expounded that he had previously granted Moran’s request to travel outside this jurisdiction and understands his desire to be with his family, “[h]owever, the Defendant is subject to restrictions in relation to very serious criminal charges.” That judge concluded that even though Moran is presumed innocent he could not to travel *as one who had not been charged*. The judge opined that given the

circumstances (facing serious charges) Moran could make other arrangements to be with this family. *Id.* ¶ 6

Moran subsequently moved to remove all travel restrictions. The People opposed the second motion for the same reasons and claimed his travel would send a bad message; and reiterated that the defendant was not above the law. ¶ 9

The judge denied the second modification motion on grounds that Moran had been *charged with a serious crime and that the conditions were necessary to prevent him from being a flight risk or a danger to the community.* *Id.* Summary reversal was granted on multiple grounds. *Id.* ¶¶ 17, 19

2. The least restrictive release condition possible *must* be imposed.

The Supreme Court has edified in no uncertain terms that a Superior Court judge *must* impose release conditions *that represent the least restrictive means of assuring the defendant's appearance* and submission to the judgment of the court. *Davis v People* 2022 VI 8, ¶10. (April 1, 2022)

This Court in *Davis* found that he was not a flight risk but determined that *he was not likely* to appear in court because of his prior failures to appear; history of fleeing from the police; *lengthy criminal history*, including convictions for violent offenses; and threats to witnesses and the victim. *Davis* ¶12⁹

⁹ *This Counsel has seen no discovery provided by the prosecution or otherwise, indicating that Davis threatened the “victim” or witnesses in this case.*

Davis' long held "bad" reputation among court staff and corrections officers should not dictate or unduly influence the Court's decision on this motion.

This Court assessment that Davis was not a flight risk remains cogent. Furthermore, the People have produced no evidence that Davis has ever, after 38 arrests, failed to appear for court or failed to comply with conditions of release so as to require a revocation hearing.

Davis' scant history of fleeing from the VIPD– with whom he has had a lengthy and contentious history over the past 25 years – on two or three occasions is relatively limited and his reaction to the police may well have been motivated by reasons other than an unwillingness to appear before this Court to defend himself.

Moreover, this Court may set conditions such as imposing a curfew and appointing a third-party custodian to assure that Davis will report to Court when a trial date is set. Davis' criminal history indicates that *more likely than not he is not going anywhere if released.*

The elephant in the room is that Davis has been a thorn in the side of many in the criminal justice system to include court clerks, and corrections officers, and he has allegedly made unseemly and unacted upon threats to others but his verbal conduct towards others involved in the criminal justice system, to include his own appointed attorneys. *under Moran should have no bearing on bail or conditions of release.*

III. CONCLUSION

For the above reasons Jimmy Davis respectfully moves the Court to grant his motion to be released with pretrial conditions because after twenty-five years in the “system” Davis has no verifiable history of failures to appear for court; or in the alternative set a reasonable bail and the least restrictive condition possible designed to ensure he continues to appear for court.

Respectfully submitted,

ANDREW C. SIMPSON, P.C.
Attorneys for Defendant`



Dated October 24, 2022

By: Howard L. Phillips (R2014)
2191 Church St., Ste. 5
Christiansted, VI 00820
(P) 340-719-3900
hphillips@coralbrief.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 24, 2022 a foregoing copy of this document was served upon the parties listed below via the Superior Court electronic service system:

Amie Simpson, Esq. AAG
amie.simpson@doj.vi.gov

/s/ Howard L. Phillips
Howard L. Phillips

FILED

mail string re Jimmy Davis' mail and videoconferencing and telephone calls STT facility

October 04, 2022 04:23 PM

SX-2020-CR-00098

TAMARA CHARLES

CLERK OF THE COURT

Howard Phillips <HPhillips@coralbrief.com>

Sent: Tuesday, September 6, 2022 8:40 AM

To: Cassandra Sasso <kassandra.sasso@voc.vi.gov>

Subject: [EXTERNAL MAIL] Inmate video conference

Good morning.

This is attorney Howard Phillips again attempting to arrange for a video conference with my client Jimmy Davis. This email address was provided to me when I called Administration.

Please advise if there is someone else I should contact.

Thank you.

Howard Phillips

2.

From: Cassandra Sasso <kassandra.sasso@voc.vi.gov>

Sent: Tuesday, September 6, 2022 8:42 AM

To: Howard Phillips <HPhillips@coralbrief.com>

Subject: Re: [EXTERNAL MAIL] Inmate video conference

Good Morning.

I was out of the office last month and I am just now getting back. Let me get back to you asap

Kassandra Sasso

Classification Officer

Bureau of Corrections

ST. Thomas, Virgin Islands 08203; 08203;

3.

From: Howard Phillips <HPhillips@coralbrief.com>

Sent: Tuesday, September 6, 2022 8:42 AM

To: Cassandra Sasso <kassandra.sasso@voc.vi.gov>

Subject: RE: [EXTERNAL MAIL] Inmate video conference

Understood. Np.

Thank you.

4.

From: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Sent: Tuesday, September 6, 2022 12:03 PM
To: Howard Phillips <HPhillips@coralbrief.com>
Subject: Re: [EXTERNAL MAIL] Inmate video conference

Good Day:

Is tomorrow afternoon good to meet with your client virtually? I have court in the morning but I am free in the afternoon

Kassandra Sasso
Classification Officer
Bureau of Corrections
ST. Thomas, Virgin Islands 08203; & 08203;

5.

From: Howard Phillips <HPhillips@coralbrief.com>
Sent: Tuesday, September 6, 2022 12:04 PM
To: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Subject: RE: [EXTERNAL MAIL] Inmate video conference

Yes, tomorrow afternoon will be fine. Just give me a time.
Thank you.

6.

From: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Sent: Tuesday, September 6, 2022 12:05 PM
To: Howard Phillips <HPhillips@coralbrief.com>
Subject: Re: [EXTERNAL MAIL] Inmate video conference

How about 2pm. Can you send the zoom link or teams link for the meeting?

Kassandra Sasso
Classification Officer
Bureau of Corrections
ST. Thomas, Virgin Islands&08203; &08203;

7.

From: Howard Phillips <HPhillips@coralbrief.com>
Sent: Tuesday, September 6, 2022 12:42 PM
To: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Subject: RE: [EXTERNAL MAIL] Inmate video conference

Howard Phillips is inviting you to a scheduled Zoom meeting.

Topic: Jimmy Davis

Time: Sep 7, 2022 02:00 PM Atlantic Time (Canada)

Join Zoom Meeting

<https://us04web.zoom.us/j/8738930797?pwd=fYQLmHivxlv27zyxwVd8m4u3ZVb1f.1>

Meeting ID: 873 893 0797

Passcode: 4uYPww

8.

From: Cassandra Sasso <kassandra.sasso@voc.vi.gov>

Sent: Tuesday, September 6, 2022 12:43 PM

To: Howard Phillips <HPhillips@coralbrief.com>

Subject: Re: [EXTERNAL MAIL] Inmate video conference

Got it, thanks!

Kassandra Sasso

Classification Officer

Bureau of Corrections

ST. Thomas, Virgin Islands&08203; &08203;

9.

From: Howard Phillips <HPhillips@coralbrief.com>

Sent: Thursday, September 8, 2022 8:48 AM

To: Cassandra Sasso <kassandra.sasso@voc.vi.gov>

Subject: [EXTERNAL MAIL] Jimmy Davis US MAIL

Good morning Ms. Sasso.

Yesterday during the Zoom call I asked Mr. Davis if he received my introduction letter last week. He said he did not and it was not returned. I will resend. Would you please provide me his inmate number for mailing? [Emphasis added]

Thank you.

Howard Phillips

NP. See you tomorrow at 2PM.

Davis-JA000152

10.

From: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Sent: Thursday, September 8, 2022 8:50 AM
To: Howard Phillips <HPhillips@coralbrief.com>
Subject: Re: [EXTERNAL MAIL] Jimmy Davis US MAIL

Can you email the letter if possible? [Emphasis added]

*Kassandra Sasso
Classification Officer
Bureau of Corrections
ST. Thomas, Virgin Islands*

11.

From: Howard Phillips <HPhillips@coralbrief.com>
Sent: Friday, September 9, 2022 8:26 AM
To: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Subject: RE: [EXTERNAL MAIL] Jimmy Davis US MAIL

Good morning Ms. Sasso.

Here is my introduction letter, but I need to be able to send confidential correspondence to him. Is that not possible?

Thanks for passing this letter and attachments to Mr. Davis

Howard L. Phillips Esq.
Attorney at Law

12.

From: Howard Phillips <HPhillips@coralbrief.com>
Sent: Friday, September 9, 2022 8:48 AM
To: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Subject: RE: [EXTERNAL MAIL] Jimmy Davis US MAIL

I sent this letter and attachments to Davis right after I was appointed. He did not know who I was when we had the videoconference. He had not received the letter when I spoke to him. The letter was not returned in the mail.

It is important that he receives attorney mail in a timely way. This is my first time with a client in your jail and I apologize for not knowing the inmate mailing process. This is why I asked for his inmate number; to ensure that he gets attorney-client mail. [Emphasis added]

Davis-JA000153

I hope that this clarifies.

13.

From: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Sent: Friday, September 9, 2022 8:40 AM
To: Howard Phillips <HPhillips@coralbrief.com>
Subject: Re: [EXTERNAL MAIL] Jimmy Davis US MAIL

What do you mean

*Kassandra Sasso
Classification Officer
Bureau of Corrections
ST. Thomas, Virgin Islands*

14.

From: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Sent: Friday, September 9, 2022 8:50 AM
To: Howard Phillips <HPhillips@coralbrief.com>
Subject: Re: [EXTERNAL MAIL] Jimmy Davis US MAIL

Any documents that you have Mr. Davis just emailed them to me and I will make sure he gets them in a timely manner [Emphasis added]

*Kassandra Sasso
Classification Officer
Bureau of Corrections
ST. Thomas, Virgin Islands*

15.

From: Howard Phillips <HPhillips@coralbrief.com>
Sent: Friday, September 9, 2022 8:51 AM
To: Cassandra Sasso <kassandra.sasso@voc.vi.gov>
Subject: RE: [EXTERNAL MAIL] Jimmy Davis US MAIL

OK, Thank you I will.

I appreciate it.

16.
You're welcome.

*Kassandra Sasso
Classification Officer
Bureau of Corrections
ST. Thomas, Virgin Islands*

17.
From: Howard Phillips <HPhillips@coralbrief.com>
Sent: Tuesday, September 13, 2022 8:12 AM
To: Kassandra Sasso <kassandra.sasso@voc.vi.gov>
Subject: [EXTERNAL MAIL] Jimmy Davis

Good morning Ms. Sasso.

I was off yesterday and Jimmy Davis called twice that he needs to talk with me.
May I speak to him by telephone as soon as possible?

Thank you.
Howard Phillips

18.
From: Kassandra Sasso <kassandra.sasso@voc.vi.gov>
Sent: Tuesday, September 13, 2022 9:27 AM
To: Howard Phillips <HPhillips@coralbrief.com>
Subject: Re: [EXTERNAL MAIL] Jimmy Davis

Yes.

*Kassandra Sasso
Classification Officer
Bureau of Corrections
ST. Thomas, Virgin Islands*

19.
From: Howard Phillips <HPhillips@coralbrief.com>
Sent: Tuesday, September 13, 2022 9:28 AM
To: Kassandra Sasso <kassandra.sasso@voc.vi.gov>
Subject: RE: [EXTERNAL MAIL] Jimmy Davis

What time? Date?

20.

From: Cassandra Sasso <kassandra.sasso@voc.vi.gov>

Sent: Tuesday, September 13, 2022 10:02 AM

To: Howard Phillips <HPhillips@coralbrief.com>

Subject: Re: [EXTERNAL MAIL] Jimmy Davis

He will call you sometime today

Kassandra Sasso

Classification Officer

Bureau of Corrections

ST. Thomas, Virgin Islands

21.

Thanks.

I go to lunch 1:30-2:30. PM

**Superior Court of the Virgin Islands
Docket Sheet**

IN THE SUPREME COURT
OF THE VIRGIN ISLANDS

FILED

December 28, 2022 06:03 PM

SCT-Crim-2022-0115
VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex F

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
225	12-28-2022 03:30 PM	Superior Court Transmittal - Superior Court Record	Official		Superior Court E-Record forwarded to the Supreme Court.	
224	12-27-2022 03:27 PM	Transcript - Electronic Transcript Of Proceedings	Official		Transcript Of Hearing Held 10-26-2022	Randall Belsvik, Court Reporter
223	12-20-2022 11:47 AM	Motion - Motion Received	Official		Motion to Withdraw Order	Howard Lee Phillips On Behalf of JIMMY DAVIS
222	12-16-2022 04:04 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CCS
221	12-16-2022 04:02 PM	Order - Order Denying	Official		Order Denying Emergency Motion to Quash Subpoena as moot	Hon. Douglas A. Brady
220	12-15-2022 04:33 PM	Motion - Motion for Extension of Time	Official		Unopposed Motion for Extension of Time to Respond to BOC's Motion to Quash Subpoena Duces Tecum	Howard Lee Phillips On Behalf of JIMMY DAVIS
219	12-14-2022 03:42 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Scheduling Order Received	
218	12-14-2022 03:38 PM	Notice - Notice Of Appeal Received	Official		Notice Of Appeal and Supreme Court Docketing Order Received. Appeal Docketed as SCT-Crim-2022-0115	
217	12-12-2022 02:41 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CCS
216	12-12-2022 02:40 PM	Order - Order Granting	Official		Order Granting Defendant's Motion for Expedited Transcript	Hon. Douglas A. Brady
215	12-07-2022 01:32 PM	Motion - Emergency Motion	Official		Emergency Motion For Expedited Transcript	Howard Lee Phillips On Behalf of JIMMY DAVIS
214	12-01-2022 02:22 PM	Motion - Motion Received	Official		Emergency Motion to Quash Subpoena Duces Tecum	Amie M. Simpson, Esq. On Behalf of People of the Virgin Islands
213	11-30-2022 05:01 PM	Notice - Notice to the Court	Official		Notice to the Court	Howard Lee Phillips On Behalf of JIMMY DAVIS
212	11-29-2022 05:37 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order Denying Motions	I Cintron CCS
211	11-29-2022 05:22 PM	Order - Order Denying	Official		Order Denying without prejudice Defendant's Motion to Return; that Defendant's Motion for Production is Denied as	Hon. Douglas A. Brady

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					moot	
210	11-29-2022 05:20 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order Modifying Bail	I Cintron CCS
209	11-29-2022 05:19 PM	Order - Pretrial Release Order	Official		Order Granting Defendant's Renewed Motion for Modification of Bail	Hon. Douglas A. Brady
208	11-29-2022 05:17 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Memorandum Opinion	I Cintron CCS
207	11-29-2022 05:11 PM	Order - Memorandum Opinion	Official		Memorandum Opinion Re Bail Modification	Hon. Douglas A. Brady
206	11-15-2022 03:35 PM	Motion - Emergency Motion	Official		Jimmy Davis' Emergency Motion for Order Directing Production of Evidence or Implement an Investigation	Howard Lee Phillips On Behalf of JIMMY DAVIS
205	11-09-2022 02:02 PM	Hearing - Record Of Proceeding	Official		Record Of Proceeding completed by CCS I Cintron, court reporter R Belsvik	
203	11-07-2022 11:52 AM	Notice - Notice Of Service	Official		Notice Of Proof of Service Subpoena Duces Tecum- Amended	Howard Lee Phillips On Behalf of JIMMY DAVIS
204	11-07-2022 11:55 AM	Notice - Notice Of Service	Official		Notice Of Proof of Service Subpoena Duces Tecum	Howard Lee Phillips On Behalf of JIMMY DAVIS
202	11-07-2022 11:30 AM	Notice - Notice to the Court	Official		Notice to the Court	Howard Lee Phillips On Behalf of JIMMY DAVIS
201	10-26-2022 11:07 AM	Hearing - Record Of Proceeding	Official		Record Of Proceeding	Tisha Laurencin, Court Clerk II
200	10-24-2022 02:56 PM	Motion - Amended Motion	Official		Jimmy Davis' Addendum to Motion for Release	Howard Lee Phillips On Behalf of JIMMY DAVIS
199	10-06-2022 03:22 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CCS
198	10-06-2022 03:20 PM	Order - Order Signed	Official		Order Signed, that the Motion shall come on for hearing via zoom, at the hearing presently scheduled for October 26, 2022 at 9:00 am	Hon. Douglas A. Brady
197	10-04-2022 04:36 PM	Motion - Motion Received	Official		Jimmy Davis' Emergency Motion to Return to St. Croix Bell Detention Facility	Howard Lee Phillips On Behalf of JIMMY DAVIS
196	09-12-2022 12:53 PM	Proof Of Service - Document Successful	Official		Proof Of Service on Jimmy Davis - Document Successful	
195	08-28-2022 04:29 PM	Notice - Notice of Appearance	Official		Notice of Appearance Submitted by Howard	Howard Lee Phillips On Behalf of JIMMY

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					Phillips, Esq.	DAVIS
194	08-26-2022 11:41 AM	Proof Of Service - Document Successful	Official		Proof Of Service on Jimmy Davis - Document Successful	
193	08-26-2022 11:40 AM	Proof Of Service - Document Successful	Official		Proof Of Service on jimmy Davis - Document Successful	
192	08-25-2022 11:02 AM	Service - Return of Service Issued	Official		Return of Service Issued to Jimmy Davis	I Cintron CCS
191	08-25-2022 11:01 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Orders	I Cintron CCS
190	08-25-2022 10:58 AM	Order - Order Appointing (Counsel)	Official		Order Appointing Howard Phillips, Esq. as Counsel	Hon. Douglas A. Brady
188	08-22-2022 02:23 PM	Notice - Proposed Order	Official		Proposed Order	H. A. Curt Otto On Behalf of JIMMY DAVIS
187	08-22-2022 02:23 PM	Motion - Motion Received	Official		Motion to be Relieved as Counsel	H. A. Curt Otto On Behalf of JIMMY DAVIS
189	08-23-2022 12:49 PM	Order - Order Granting	Official		Order Granting Motion to Withdraw as Counsel	Hon. Douglas A. Brady
186	08-19-2022 09:40 AM	Service - Return of Service Issued	Official		Return of Service Issued to Jimmy Davis	I Cintron CCS
185	08-19-2022 09:40 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Orders	I Cintron CCS
184	08-19-2022 09:39 AM	Order - Order Appointing (Counsel)	Official		Order Appointing H.A. Curt Otto, Esq. as Counsel	Hon. Douglas A. Brady
183	08-18-2022 05:14 PM	Order - Order Granting	Official		Order Granting Motion to Withdraw as Counsel	Hon. Douglas A. Brady
182	08-16-2022 10:14 AM	Motion - Motion Received	Official		Jeffrey Moorhead's Motion to Withdraw as Attorney of Record for Defendant	Jeffrey B. C. Moorhead On Behalf of JIMMY DAVIS
181	08-11-2022 11:53 AM	Service - Return of Service Issued	Official		Return of Service Issued to Jimmy Davis	I Cintron CCS
180	08-05-2022 09:33 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Orders	I Cintron CCS
179	08-05-2022 09:31 PM	Order - Order Appointing (Counsel)	Official		Order Appointing Jeffrey B.C. Moorhead, Esq. as Counsel	Hon. Douglas A. Brady
178	07-20-2022 04:26 PM	Order - Order Granting	Official		Order Granting Motion to be Relieved as Counsel	Hon. Douglas A. Brady
177	07-19-2022 01:14 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CCS
176	07-19-2022 01:11 PM	Order - Voucher For Compensation Approved By The Court	Official		Voucher For Compensation Approved By The Court	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
175	07-01-2022 02:52 PM	Notice - Proposed Order	Official		Proposed Order	Scot F. McChain On Behalf of JIMMY DAVIS
174	07-01-2022 02:51 PM	Motion - Motion Received	Official		Motion to be Relieved as Counsel	Scot F. McChain On Behalf of JIMMY DAVIS
173	05-31-2022 08:53 AM	Proof Of Service - Document Successful	Official		Proof Of Service on Jimmy Davis- Document Successful	
172	05-27-2022 04:57 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Orders	I Cintron CCS
171	05-27-2022 04:49 PM	Order - Order Appointing (Counsel)	Official		Order Appointing Scot McChain, Esq. as Counsel	Hon. Douglas A. Brady
170	05-19-2022 10:29 PM	Order - Order Granting	Official		Order Granting Motion to be Relieved as Counsel	Hon. Douglas A. Brady
169	05-18-2022 10:23 AM	Motion - Application Voucher For Compensation - Attorney	Official		Application Voucher For Compensation - Attorney	Dwayne Henry
168	05-13-2022 05:18 PM	Motion - Motion Received	Official		Motion to Withdraw as Appointed Counsel	Michael Joseph Jurek On Behalf of JIMMY DAVIS
167	05-11-2022 01:34 PM	Service - Return of Service Issued	Official		Return of Service Issued to Jimmy Davis	
166	05-10-2022 02:10 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Orders	I Cintron CCS
165	05-10-2022 02:07 PM	Order - Order Appointing (Counsel)	Official		Order Appointing Michael J. Jurek, Esq. as Counsel	Hon. Douglas A. Brady
164	05-10-2022 12:30 PM	Order - Order Granting	Official		Order Granting Motion to be Relieved as Counsel; that the Hearing on Defendant's Motion for Release is continued to August 3, 2022 at 9:00 am via zoom	Hon. Douglas A. Brady
163	05-04-2022 04:50 PM	Motion - Motion Received	Official		Motion to be Relieved as Counsel Received	Dwayne Henry On Behalf of JIMMY DAVIS
162	05-04-2022 09:24 AM	Notice - Proposed Order	Official		Proposed Order to be relieved as counsel Submitted by Dwayne Henry, Esq.	Dwayne Henry On Behalf of JIMMY DAVIS
161	04-26-2022 03:38 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Mandate of the Supreme Court Received	VI Supreme Court
160	04-13-2022 03:56 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CCS
159	04-13-2022 03:54 PM	Order - Order Signed	Official		Order Signed that this matter shall come on for a Hearing on Defendant's	Hon. Douglas A. Brady

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					Motion for Modification of Bail on May 24, 2022 at 9:00 am via zoom	
158	04-01-2022 05:54 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Errata Order Received	Supreme Court of the VI
157	04-01-2022 02:23 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Opinion & Judgment of the Supreme Court Received. ORDERED that the Superior Court's June 17, 2021 order is REVERSED and the matter is REMANDED for further proceedings.	VI Supreme Court
156	04-01-2022 09:41 AM	Motion - Motion For Release Received	Official		Motion For Release and Order Received Submitted by Dwayne Henry, Esq.	Dwayne Henry On Behalf of JIMMY DAVIS
155	03-23-2022 02:33 PM	Proof Of Service - Document Successful	Official		Proof Of Service on Jimmy Davis- Document Successful	
154	03-21-2022 11:38 AM	Service - Return of Service Issued	Official		Return of Service Issued Jimmy Davis	I Cintron CCS
153	03-21-2022 11:37 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CCS
152	03-21-2022 11:33 AM	Order - Order Granting	Official		Order Granting Stipulation for Substitution of Appointed Counsel	Hon. Douglas A. Brady
151	03-18-2022 12:33 PM	Motion - Motion Received	Official		Stipulation for Substitution of Appointed Counsel	Jerry H. Evans On Behalf of JIMMY DAVIS
150	03-17-2022 05:53 PM	Proof Of Service - Document Successful	Official		Proof Of Service on Jimmy Davis - Document Successful	
149	03-11-2022 08:05 PM	Service - Return of Service Issued	Official		Return of Service Issued to Jimmy Davis	I Cintron CCS
148	03-11-2022 07:47 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CCS
147	03-11-2022 07:46 PM	Order - Order Appointing (Counsel)	Official		Order Appointing Jerry H. Evans, Esq. as Counsel	Hon. Douglas A. Brady
146	02-23-2022 11:42 AM	Proof Of Service - Document Successful	Official		Proof Of Service on Jimmy Davis - Document Successful	
145	02-15-2022 04:15 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CC Supv.
144	02-15-2022 04:06 PM	Order - Order Granting	Official		Order Granting Motion to Withdraw as Counsel	Hon. Douglas A. Brady Shari Natalya D'Andrade On Behalf of JIMMY DAVIS

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
143	02-14-2022 03:45 PM	Notice - Proposed Order	Official		Proposed Order	Shari Natalya D'Andrade On Behalf of JIMMY DAVIS
142	02-14-2022 03:44 PM	Motion - Motion Received	Official		Motion to be Relieved as Appointed Counsel Received	Shari Natalya D'Andrade On Behalf of JIMMY DAVIS
141	02-10-2022 05:16 PM	Service - Return of Service Issued	Official		Return of Service Issued to Jimmy Davis	I Cintron CC II
140	02-10-2022 05:09 PM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order	I Cintron CC II
139	02-10-2022 05:07 PM	Order - Order Appointing (Counsel)	Official		Order Appointing Shari D'Andrade, Esq. as Counsel	Hon. Douglas A. Brady
138	02-01-2022 03:40 PM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order	I Cintron CC II
137	02-01-2022 03:38 PM	Order - Order Granting	Official		Order Granting Motion for Leave to Withdraw	Hon. Douglas A. Brady
136	01-21-2022 04:29 PM	Notice - Proposed Order	Official		Proposed Order to withdraw Submitted by Kye Walker, Esq.	Kye Walker On Behalf of JIMMY DAVIS
135	01-21-2022 04:27 PM	Motion - Ex-Parte Motion	Official		Ex-Parte Motion for leave to withdraw as counsel and Order Submitted by Kye Walker, Esq.	Kye Walker On Behalf of JIMMY DAVIS
134	01-18-2022 02:00 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Mandate and Certified Copy of Order entered December 22, 2021 Received	VI Supreme Court
133	12-28-2021 03:39 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Please take notice that on December 22, 2021, a(n) ORDER was/were entered by the Clerk in the above-entitled matter. The certified copy of the Order of the Court, attached hereto, constitutes the MANDATE of this Court.	
132	12-22-2021 02:46 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	Janeen Maranda, CCII
131	12-21-2021 10:37 AM	Order - Order Appointing (Counsel)	Official		Order Appointing (Counsel) Kye Walker	
130	12-17-2021 02:06 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	I Cintron CC II
129	12-17-2021 02:04 PM	Order - Order Granting	Official		Order Granting Motion to be Relieved as Counsel	Hon. Douglas A. Brady
128	12-15-2021 04:56 PM	Notice - Proposed Order	Official		Proposed Order to be	Lee J. Rohn, ESQ.

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					relieved as counsel Submitted by Lee J. Rohn, Esq.	On Behalf of JIMMY DAVIS
127	12-15-2021 04:55 PM	Motion - Motion Received	Official		Motion to be relieved as appointed counsel, Exhibit and Order Received Submitted by Lee J. Rohn, Esq.	Lee J. Rohn, ESQ. On Behalf of JIMMY DAVIS
126	12-06-2021 12:06 PM	Proof Of Service - Document Successful	Official		Proof Of Service on Jimmy Davis - Document Successful	
125	11-30-2021 04:57 PM	Service - Return of Service Issued	Official		Return of Service Issued to Jemmy Davis	I Cintron CC II
124	11-30-2021 04:54 PM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order	I Cintron CC II
123	11-30-2021 04:53 PM	Order - Order Appointing (Counsel)	Official		Order Appointing Lee J. Rohn, Esq. as Counsel	Hon. Douglas A. Brady
120	11-29-2021 09:18 PM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order	I Cintron CC II
119	11-29-2021 09:16 PM	Order - Order Granting	Official		Order Granting Motion to be Relieved as Counsel	Hon. Douglas A. Brady
122	11-30-2021 10:11 AM	Notice - Proposed Order	Official		Proposed Order for Request For Ruling On Motion To Be Relieved As Appointed Counsel	Charles E. Lockwood On Behalf of JIMMY DAVIS
121	11-30-2021 10:10 AM	Motion - Motion Received	Official		Request For Ruling On Motion To Be Relieved As Appointed Counsel	Charles E. Lockwood On Behalf of JIMMY DAVIS
118	11-08-2021 10:34 AM	Notice - Proposed Order	Official		Proposed Order for motion to be relieved as counsel Submitted by Charles Lockwood, Esq.	Charles E. Lockwood On Behalf of JIMMY DAVIS
117	11-08-2021 10:33 AM	Motion - Motion Received	Official		Motion to be relieved a appointed Counsel and Order Received Submitted by Charles Lockwood, Esq.	Charles E. Lockwood On Behalf of JIMMY DAVIS
116	10-27-2021 04:18 PM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Order	Iris Cintron CC II
115	10-27-2021 04:17 PM	Order - Order Appointing (Counsel)	Official		Order Appointing Charles Lockwood, Esq. as Counsel	Hon. Douglas A. Brady
114	10-26-2021 09:00 AM	Service - Return of Service Received			Return of Service Received/Ben Adams	Marshall Office
113	10-15-2021 12:33 PM	Notice - Notice of Entry of Judgment/Order			Notice of Entry of Orders	Iris Cintron, CC II
112	10-15-2021 12:32 PM	Order - Order Signed	Official		Order Signed, Motion for Release Denied w/o	Hon. Douglas A. Brady

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					Prejudice	
111	10-15-2021 12:30 PM	Order - Order Signed	Official		Order Signed, Granting Motion to Withdraw as Counsel and Stay Trial; October 7, 2021 Final Scheduling Order is Vacated, including all dates therein, in its entirety. New Counsel to be Appointed	Hon. Douglas A. Brady
110	10-15-2021 10:25 AM	Notice - Proposed Order	Official		Proposed Order-Emergency Motion to Withdraw as Counsel and Stay Trial	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
109	10-15-2021 10:23 AM	Motion - Motion Received	Official		Emergency Motion to Withdraw as Counsel and Stay Trial	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
108	10-07-2021 01:43 PM	Service - Return of Service Issued	Official		Return of Service Issued to Ben Adams, Warden at BOC	Iris Cintron CC II
107	10-07-2021 01:35 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	Iris Cintron, CC II
106	10-07-2021 01:31 PM	Clerk Order - Scheduling Order	Official		Final Scheduling Order, that Jury Selection and Trial is scheduled for November 8, 2021 at 9:00 am; that, if necessary a remote Change of Plea Hearing is scheduled for October 20, 2021 at 10:30 am via zoom; that Final Pretrial Conference is scheduled for October 27, 2021 at 10:00 am via zoom	Hon. Douglas A. Brady
105	09-22-2021 05:57 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Order of the Supreme Court Appointing the Hon. Renee Gumbs-Carty, Judge of the Superior Court of the Virgin Islands to sit as a DESIGNATED JUSTICE OF THE SUPREME COURT OF THE VIRGIN ISLANDS for consideration of the above-referenced case Received	
104	09-22-2021 11:48 AM	Notice - Proposed Order	Official		Proposed Order-Defendant's Motion for Release	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
103	09-22-2021 11:47 AM	Motion - Motion For Release Received	Official		Defendant's Motion for Release	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
102	09-20-2021 12:01 PM	Hearing - Record Of Proceeding	Official		Record Of Proceeding completed by clerk I Cintron	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
					court reporter C Greco	
101	09-01-2021 02:59 PM	Notice - Notice Of Entry	Official		Notice of Entry of Order	
100	09-01-2021 02:57 PM	Order - Order Signed	Official		Order Setting Priority Cases for Trial: October 2021 through January 2022; Calendar Call on September 20, 2021 at 9:00 am via Zoom	Hon. Douglas A. Brady
99	08-03-2021 01:04 PM	Superior Court Transmittal - Superior Court Record	Official		Superior Court E-Record forwarded to the Supreme Court.	
98	08-03-2021 08:06 AM	Notice - Proposed Order	Official		Proposed Order - Date	Robert J. Kuczynski, Esq.
97	08-03-2021 08:05 AM	Motion - Motion Received	Official		Defendant's Motion for Trial Date	Robert J. Kuczynski, Esq.
96	07-30-2021 03:34 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Supreme Court Scheduling Order (SCT-Crim-2021-0023) Received.	
95	07-23-2021 01:08 PM	Proof Of Service - Document Successful	Official		Proof Of Service on Anthony Hector, Interim Warden BOC- Document Successful	
94	07-20-2021 04:23 PM	Service - Return of Service Issued	Official		Return of Service Issued to BOC Interim Warden, Anthony Hector	Iris Cintron, Court Clerk II
93	07-20-2021 04:03 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	Iris Cintron, Court Clerk II
92	07-20-2021 03:59 PM	Order - Order Signed	Official		Order Signed: that ruling on Defendant's Motion to Return Defendant to St. Croix is Deferred	Hon. Douglas A. Brady
91	07-16-2021 04:02 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Dismissal Order of the Supreme Court Received (SCT-CIV-2021-0015). ORDERED that this matter is DISMISSED WITHOUT PREJUDICE.	
90	07-13-2021 01:00 PM	Notice - Notice of Filing	Official		Notice of Filing: Copy of Amended Notice of Appeal	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
89	07-06-2021 08:32 AM	Notice - Proposed Order	Official		Proposed Order	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
88	07-06-2021 08:32 AM	Motion - Motion Received	Official		Motion to Return Defendant to St. Croix	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
87	06-30-2021 03:17 PM	Notice - Notice of Entry of	Official		Notice of Entry of Order	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
		Judgment/Order				
86	06-30-2021 03:16 PM	Order - Order Signed	Official		Order Signed Scheduling in-person Disposition Hearing on August 16, 2021	Hon. Douglas A. Brady
85	06-29-2021 02:53 PM	Case Transcript - Transcript Received	Official		Transcript submitted for Motion Hearing held on June 14, 2021	Tracy Binder, Court Reporter
84	06-23-2021 02:39 PM	Superior Court Transmittal - Other	Official		Certified copy of Superior Court Docket Sheet and Order entered June 17, 2021 forwarded to the Supreme Court.	
83	06-23-2021 12:17 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	Iris Cintron, Court Clerk II
81	06-22-2021 05:30 PM	Notice - Notice Of Appeal Received	Official		Notice Of Appeal and Supreme Court Docketing Order Received. Appeal Docketed as SCT-CRIM-2021-0023.	
82	06-23-2021 12:14 PM	Order - Order Signed	Official		Order for payment of requested expedited transcript	Hon. Douglas A. Brady
80	06-22-2021 02:49 PM	Notice - Proposed Order	Official		Proposed Order	
79	06-22-2021 02:48 PM	Motion - Emergency Motion	Official		EMERGENCY MOTION FOR EXPEDITED TRANSCRIPT	
78	06-17-2021 02:35 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order Denying Motion	Iris Cintron, Court Clerk II
77	06-17-2021 02:30 PM	Order - Order Signed	Official		Order Signed, that Defendant's Renewed Motion for Modification of Bail is Denied	Hon. Douglas A. Brady
76	06-14-2021 01:58 PM	Hearing - Record Of Proceeding	Official		Record Of Proceeding completed by Clerk, Iris Cintron	
75	06-12-2021 06:53 AM	Response - Opposition Received	Official		Opposition to Renewed Motion for Modification of Bail	Amie M. Simpson, Esq. On Behalf of People of the Virgin Islands
74	06-04-2021 02:26 PM	Notice - Notice to the Court	Official		Copy of Notice of Voluntary Dismissal to the Supreme Court filed by Robert J. Kuczynski, Esq.	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
73	06-02-2021 01:59 PM	Appeal - Certified Docket Forwarded To Supreme Court	Official		Certified Docket Sheets Forwarded To Supreme Court	
72	05-21-2021 04:52 PM	Motion - Motion Received	Official		Defendant's Motion to Expedite Bail Hearing	Robert Joseph Kuczynski On Behalf

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
						of JIMMY DAVIS
71	05-21-2021 04:51 PM	Notice - Proposed Order	Official		Proposed Order	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
70	05-19-2021 03:05 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order Eric Chancellor, Esq., AAG Amie M. Simpson, Esq. AAG Robert J. Kuczynski, Esq.	Tisha Laurencin, Court Clerk II
69	05-19-2021 03:02 PM	Order - Order	Official		Order signed by Judge Douglas Brady-Ordered that this matter shall come on for a hearing on Defendant's Motions on Monday, June 14, 2021 at 9am via Zoom	Hon. Douglas A. Brady
68	05-17-2021 12:51 PM	Notice - Notice From The Supreme Court Regarding Appeal Received	Official		Writ of Mandamus and Supreme Court Docketing Order Received. Appeal Docketed as SCT-CIV-2021-0015.	
67	05-05-2021 02:56 PM	Notice - Notice to the Court	Official		Defendant's Request for Hearing on Renewed Motion for Modification of Bail	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
66	04-14-2021 06:37 PM	Notice - Notice to the Court	Official		Defendant's Notice Re: Renewed Motion For Modification Of Bail	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
65	03-23-2021 09:58 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	Iris Cintron, Court Clerk
64	03-22-2021 09:52 PM	Order - Order Signed	Official		Order that Motion to Return Defendant to St. Croix is Denied without Prejudice	Hon. Douglas A. Brady
63	03-22-2021 09:48 PM	Order - Order Signed	Official		Order that Ruling on Motion is Deferred	Hon. Douglas A. Brady
62	03-22-2021 06:28 PM	Notice - Proposed Order	Official		Proposed Order	
61	03-22-2021 06:27 PM	Motion - Motion Received	Official		Defendant's Renewed Motion for Modification of Bail Submitted by Robert Kuzynski, Esq.	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
60	03-22-2021 12:29 PM	Hearing - Record Of Proceeding	Official		Record Of Proceeding completed by Clerk Iris Cintron	
59	03-19-2021 05:14 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	Iris Cintron Court Clerk
58	03-19-2021 05:10 PM	Order - Order Signed	Official		Order Granting Motion for Payment of Transcript	Hon. Douglas A. Brady
57	03-19-2021 04:18 PM	Motion - Memorandum Of Law Received	Official		Defendant's Pre-trial Memorandum	Robert Joseph Kuczynski On Behalf

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
						of JIMMY DAVIS
56	03-18-2021 08:47 PM	Motion - Motion Received	Official		Emergency Motion to Return Defendant to St. Croix	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
55	03-18-2021 08:46 PM	Notice - Proposed Order	Official		Proposed Order o Motion to Return	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
54	03-18-2021 08:46 PM	Notice - Proposed Order	Official		Proposed Order to Motion in Limine	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
53	03-18-2021 08:45 PM	Motion - Motion Received	Official		Motion in Limine to Suppress Any Evidence of Defendant Jimmy Davis' Prior Convictions	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
52	03-04-2021 08:00 PM	Motion - Motion Received	Official		Motion for Expedited Transcript Received	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
51	03-04-2021 07:59 PM	Notice - Proposed Order	Official		Proposed Order	
50	12-30-2020 12:04 PM	Hearing - Record Of Proceeding	Official		Record Of Proceeding completed	
49	12-28-2020 04:33 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	
48	12-23-2020 04:25 PM	Order - Order Signed	Official		Order for Payment for Requested Expedited Transcript Signed by Judge Douglas A. Brady	
47	12-14-2020 05:14 PM	Notice - Notice to the Court	Official		Defendant's Notice in Re: Emergency Renewed Motion for Modification of Bail	
46	12-04-2020 04:23 PM	Notice - Proposed Order	Official		Proposed Order	
45	12-04-2020 04:22 PM	Motion - Motion Received	Official		Motion for Expedited Transcript Received	
44	12-01-2020 02:40 PM	Notice - Proposed Order	Official		Proposed Order for Motion for Modification of Bail	
43	12-01-2020 02:39 PM	Motion - Motion Received	Official		Defendant's Emergency Renewed Motion for Modification of Bail received with Exhibits	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
42	11-16-2020 12:24 PM	Hearing - Record Of Proceeding	Official		Record Of Proceeding completed by clerk Iris Cintron, court reporter Randall Belsvik	
41	11-06-2020 03:00 PM	Notice - Notice of Filing	Official		First Supplemental Discovery submitted by Amie M. Simpson, Esq.	
40	10-27-2020 03:29 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order for 10-21-20 scheduling order	

Superior Court of the Virgin Islands

Docket Sheet

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
39	10-23-2020 01:34 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order setting motion hearing on November 16, 2020	
38	10-23-2020 01:30 PM	Order - Order Signed	Official		Order Signed by Judge Douglas A. Brady, Granting Defendant's Motion for Hearing, that the bail modification hearing is scheduled for November 16, 2020 at 9:00 am via Zoom	
37	10-21-2020 03:39 PM	Order - Order Signed	Official		Order Signed by Judge Douglas A. Brady, scheduling status conference on December 7, 2020 at 9:00 am via Zoom	
36	09-21-2020 11:16 AM	Action - Proposed Document For Judge's Signature	Official		Proposed Order for Motion for Expedited Hearing For Judge's Signature submitted by Atty Robert Kuczynski	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
35	09-21-2020 11:15 AM	Motion - Motion Received	Official		Defendant's Motion for Expedited Hearing Re: Motion for Modification of Bail filed by Atty Robert Kuczynski	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
34	09-16-2020 04:45 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order	
33	09-16-2020 04:39 PM	Order - Order Signed	Official		Order Signed by Judge Douglas A. Brady, Granting Motion to Amend Charging Instrument	
32	09-11-2020 02:41 PM	Response - Responses	Official		Defendant's Response to Supplemental Motion to Amend Charging Instrument of JIMMY DAVIS	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
31	08-28-2020 01:58 PM	Motion - Supplemental Motion Received	Official		Supplemental Motion to Amend Information Received Filed by Amie Simpson, Esq. Islands	Amie M. Simpson, Esq. On Behalf of People of the Virgin Islands
30	08-28-2020 01:52 PM	Motion - Reply Received	Official		Defendant's Reply Motion for Modification of Bail Received Filed by Robert Kuczynski, Esq.	Robert Joseph Kuczynski On Behalf of JIMMY DAVIS
29	08-21-2020 01:56 PM	Notice - Proposed Order	Official		Proposed Order to amend information Submitted by Amie Simpson, Esq.	Amie M. Simpson, Esq. On Behalf of People of the Virgin Islands
28	08-19-2020 11:02 AM	Motion - Motion To Amend Received	Official		Motion To Amend Charging Instrument with Amended	Amie M. Simpson, Esq. On Behalf of

**Superior Court of the Virgin Islands
Docket Sheet**


Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
27	08-17-2020 10:29 AM	Opposition Motion - Opposition Motion	Official		Information filed by Atty Amie Simpson opposition to motion for modification of bail, exhibit A and Exhibit B Submitted by Amie Simpson, Esq.	People of the Virgin Islands Amie M. Simpson, Esq. On Behalf of People of the Virgin Islands
26	08-11-2020 11:09 AM	Motion - Motion Received	Official		Motion for Modification of Bail received with Proposed Order from Atty. Robert Kuczynski	
25	07-13-2020 12:12 PM	Notice - Notice of Filing	Official		Notice of Appearance submitted by Robert J. Kuczynski, Esq.	
24	07-07-2020 01:16 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Orders	
23	07-07-2020 01:10 PM	Order - Order Appointing (Counsel)	Official		Order Appointing Robert Kuczynski, Esq. as Counsel signed by Judge Douglas A. Brady	
22	07-07-2020 01:08 PM	Order - Order Signed	Official		Order Signed by Judge Douglas A. Brady, Granting Motion to be Relieved as Counsel	
21	07-06-2020 01:24 PM	Response - Response	Official		Response to Discovery Request filed by Amie M. Simpson, Esq.	Amie M. Simpson, Esq.
20	07-06-2020 10:51 AM	Notice - Notice of Appearance	Official		Notice of Appearance received from Amie Simpson, Esq. Discovery Request attached.	
19	06-22-2020 01:14 PM	Notice - Notice Of Reassignment	Official		Notice Of Reassignment	
18	06-22-2020 01:04 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	Hon. Harold W.L. Willocks
17	06-18-2020 12:02 PM	Order - Order	Official		Order of Recusal Signed by Judge Harold W.L. Willocks	Judge Harold W.L. Willocks
16	06-11-2020 01:44 PM	Motion - Motion For Substitution Of Counsel Received	Official		Motion to be relieved as counsel, memorandum of points and authorities, and Order Received Submitted by Leslie Davis, Esq.	Office of the Public Defender On Behalf of JIMMY DAVIS Leslie Davis, Esq.
15	06-01-2020 02:49 PM	Notice - Notice Of Reassignment	Official		Notice Of Reassignment prepared	
14	06-01-2020 01:15 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Judgment/Order	
13	06-01-2020 01:09 PM	Order - Order	Official		ORDER OF RECUSAL SIGNED	

**Superior Court of the Virgin Islands
Docket Sheet**

Case #	SX-2020-CR-00098	Judge	Hon. Douglas A. Brady
Case Title	People of the Virgin Islands v. Jimmy Davis	Case Type	Criminal - Felony - Complex Felony

#	Filed Date	Docket Entry Type	Status	Outcome	Description	Submitted By
12	05-13-2020 01:24 PM	Hearing - Record Of Proceeding	Official		BY JUDGE MEADE Record Of Proceeding by Valeria Velasquez	
11	05-13-2020 01:22 PM	Notice - Notice of Entry - Criminal	Official		Notice of Entry order of Scheduling Order	
10	05-13-2020 01:21 PM	Clerk Order - Scheduling Order	Official		Scheduling Order	
9	05-11-2020 01:20 PM	Initiating Document - Complaint/Information Received	Official		Information filed by Eric S. Chancellor, Esq., Criminal Division Chief	
8	04-15-2020 09:46 AM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Order Granting Motion Amie Simpson, Esq. Eric Chancellor, Esq. Bureau of Corrections Jimmy Davis, Defendant H. Hannibal O'bryan, Esq. Kathryn Slade, Esq.	
7	04-15-2020 09:44 AM	Order - Order Granting	Official		Order Granting motion for Buccal Swab and Disease testing signed by Magistrate Judge Miguel A. Camacho	
6	04-08-2020 04:10 PM	Motion - Motion Received	Official		Motion/proposed order for Buccal Swab/DNA sample Received. Submitted by Amie Simpson, Esq.	
5	04-08-2020 01:33 PM	Motion - Motion Received	Official		Motion for Transmittable Disease Testing filed by Amie M. Simpson, Esq., AAG	Amie M. Simpson, Esq., AAG
4	04-08-2020 12:15 PM	Notice - Notice of Entry of Judgment/Order	Official		Notice of Entry of Memorandum & Orders Public Defenders Attorney General Jimmy Davis, Defendant VIPD Bureau of Corrections	
3	04-08-2020 12:13 PM	Order - Order Appointing (Counsel)	Official		Order Appointing (Counsel) Signed by Magistrate Judge Miguel A. Camacho	
2	04-08-2020 12:12 PM	Order - Memorandum Record Of Proceeding/Initial Hearing	Official		Memorandum Record Of Proceeding/Initial Hearing - 1000968	
1	04-08-2020 12:11 PM	Initiating Document - Probable Cause Fact Sheet Received	Official		Probable Cause Fact Sheet, VIPDR, BCI and NCIC Received	

CERTIFIED TO BE A TRUE COPY
 This 28th day of Dec. 20 22
 TAMARA CHARLES
 CLERK OF THE COURT
 By  Court Clerk