

Not For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

PEOPLE OF THE VIRGIN ISLANDS,)	S. Ct. Civ. No. 2007-129
)	Re: Super. Ct. Crim. No. 119/2000
Appellant/Respondent,)	Re: Super. Ct. Civ. No. 696/2006
)	
v.)	
)	
CLEMENTO MONSANTO,)	
)	
Appellee/Petitioner.)	
)	

On Appeal from the Superior Court of the Virgin Islands
Considered and Filed: March 26, 2009

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice; and
IVE ARLINGTON SWAN, Associate Justice.

APPEARANCES:

Gordon C. Rhea, Esq.
Richardson Patrick Westbrook & Brickman, LLC
Mt. Pleasant, South Carolina
Attorney for Appellant

Dolace McLean, Esq., AAG
Dept. of Justice
St. Thomas, U.S.V.I.
Attorney for Appellee

OPINION OF THE COURT

PER CURIAM.

This matter comes before the Court as a result of an appeal brought by the People of the Virgin Islands (hereafter “People”) of the Superior Court’s December 3, 2007 Order granting a petition for writ of habeas corpus filed by Appellee Clemento Monsanto (hereafter “Monsanto”), vacating his conviction, and releasing him from custody. For the following reasons, we will reverse the trial court’s order.

I. FACTUAL AND PROCEDURAL BACKGROUND

Following his alleged involvement in an armed robbery on April 22, 2000, Monsanto was charged with four counts of robbery in the first degree in violation of title 14, section 1862(2) of the Virgin Islands Code. On July 28, 2000, Monsanto's first attorney, Terri L. Griffiths, filed a motion for psychiatric evaluation to determine if Monsanto was competent to stand trial. After Attorney Griffiths subsequently relocated to Florida, Monsanto's second attorney, Nathania Bates, filed a renewed motion for psychological evaluation, again alleging that Monsanto appeared confused and seemed unable to appreciate the nature of the proceedings against him. The Superior Court granted the renewed motion on September 27, 2000, and ordered a psychological evaluation.

On October 3, 2000, Dr. Gloria Mendez, a psychologist associated with the Virgin Islands Department of Health, performed a psychological evaluation of Monsanto. In her report, Dr. Mendez concluded that Monsanto had an Intelligence Quotient ("IQ") of 51 and was mildly mentally retarded, but recommended that he was competent to stand trial because "[h]is disability does not severely impair his ability to understand right from wrong." (J.A. at 35.) The trial court did not make a formal finding of Monsanto's competence and did not hold a competency hearing. The matter proceeded to trial on October 23, 2000, and Monsanto was found guilty of all counts on October 26, 2000. On November 22, 2000, Monsanto was subsequently sentenced to four concurrent terms of fifteen years and was remanded to the custody of the Bureau of Corrections at the Golden Grove Correctional Facility in St. Croix.

Monsanto filed a *pro se* petition for writ of habeas corpus on November 9, 2006, which the trial court interpreted as a contention that his representation at trial was inadequate because his attorney did not request a competency hearing. After the trial court appointed counsel to

represent Monsanto, a new petition for writ of habeas corpus was filed on September 28, 2007. The trial court held a hearing on November 8, 2007, and entered an order granting Monsanto's petition on December 3, 2007, on the basis that Monsanto's rights pursuant to the Insanity Defense Reform Act, codified at 18 U.S.C. §§ 4241-4248, were violated. The People filed its notice of appeal on December 12, 2007.

II. DISCUSSION

A. Jurisdiction and Standard of Review

“The Supreme Court shall have jurisdiction over all appeals arising from final judgments, final decrees or final orders of the Superior Court, or as otherwise provided by law.” V.I. CODE ANN. tit. 4 § 32(a). Although the People may not generally appeal an order or judgment, *People of the V.I. v. Antonio George*, No. 2007-120, 2008 WL 2518556, at *2 (V.I. 2008), statutory authority expressly permits the instant appeal. *See* 4 V.I.C. § 33(d)(3) (“An appeal by the Government . . . shall lie to the Supreme Court from a decision or order, entered by the Superior Court, granting the release of a person charged with or convicted of an offense . . .”).

This Court reviews the trial court's grant of a petition for habeas corpus de novo. *Ibrahim v. Gov't*, S.Ct. Civ. No. 2007-76, 2008 WL 901503, at *1 (V.I. 2008).

B. The Trial Court Erred in Applying Federal Substantive Law

A few weeks after the trial judge's decision in this case, this Court issued its decision in *Gov't v. Durant*, 49 V.I. 366 (V.I. 2008). In *Durant*, this Court held that the provisions of the Insanity Defense Reform Act, which “establish an extensive legal process for dealing with mentally incompetent defendants charged with or convicted of federal crimes,” are substantive federal provisions that cannot be applied to defendants charged in the Superior Court with violations of Virgin Islands law through Superior Court Rule 7, for only the Virgin Islands

Legislature has such lawmaking authority. *Id.* at 373-75.

Here, as in *Durant*, the sole basis the trial court articulated for granting Monsanto's requested relief was "its perceived violations of and noncompliance with federal substantive law, which was improperly imputed by court rule." *Id.* 376. Accordingly, we shall reverse the trial court's order and remand the matter to the Superior Court for further proceedings.

III. CONCLUSION

Because the Superior Court improperly relied upon substantive federal law in determining Monsanto's due process rights, the court committed clear legal error when it granted Monsanto's petition for habeas corpus, vacated his conviction, and ordered his release. Therefore, this Court reverses the trial court's December 3, 2007 order and remands the matter for a disposition consistent with this opinion and our opinion in *Durant*.

Dated this 26th day of March, 2009.

ATTEST:
VERONICA J. HANDY, ESQ.
Clerk of the Court