

Not For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

JIMMY DAVIS,) **S. Ct. Crim. No. 2014-0036**
Appellant/Defendant,) Re: Super. Ct. Crim. No. 028/2014 (STX)
)
v.)
)
PEOPLE OF THE VIRGIN ISLANDS,)
Appellee/Plaintiff.)
)
)
)
_____)

On Appeal from the Superior Court of the Virgin Islands
Division of St. Croix
Superior Court Judge: Hon. Robert A. Molloy

Considered: August 14, 2014
Filed: August 14, 2014

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

APPEARANCES:

Carl A. Beckstedt, Esq.
Beckstedt & Associates
St. Croix, U.S.V.I.
Attorneys for Appellant,

Kimberly L. Salisbury, Esq.
Assistant Attorney General
St. Thomas, U.S.V.I.
Attorney for Appellee.

OPINION OF THE COURT

PER CURIAM.

Appellant Jimmy Davis appeals from the Superior Court’s May 22, 2014 Order denying his “Emergency Motion for Request for Renewed Bail Hearing.” For the reasons that follow, we reverse.

I. BACKGROUND

On January 23, 2014, the People of the Virgin Islands charged Davis with corruptly influencing a juror. At an advice of rights hearing that same day, a Superior Court judge set bail at \$10,000. Davis filed his emergency motion on April 16, 2014, which stated that the bail set at the advice of rights hearing was too high and should be reconsidered.

A different Superior Court judge held a hearing on May 15, 2014. At this hearing, the second judge invoked this Court's decision in *Rieara v. People*, 57 V.I. 659 (V.I. 2012), stating that it stood for the proposition that one Superior Court judge cannot set aside a bail decision issued by another Superior Court judge "unless [there are] changed circumstances or new evidence," (Hr'g Tr. 36), and accordingly denied the motion because "there's no evidence of any additional evidence" and "the proper avenue was to file an appeal with the Supreme Court and not to file a renewed motion when there's no additional evidence or different proffers to another judicial officer of the Superior Court." (Hr'g Tr. 42).

The Superior Court memorialized that decision in a May 22, 2014 Order, and Davis filed his notice of appeal with this Court on June 12, 2014. This Court, in a June 26, 2014 Order, issued an abbreviated briefing schedule in accordance with Supreme Court Rule 9(a).

II. DISCUSSION

"Because . . . an order denying a motion for reduction of bail is reviewable under the collateral order doctrine," a limited exception to the final judgment rule embodied in 4 V.I.C. § 32(a), this Court has jurisdiction over this appeal. *Rieara*, 57 V.I. at 64-65. Although decisions relating to the amount of bail are ordinarily reviewed only for abuse of discretion, *id.* at 665, we engage in plenary review if the decision is based on application of a legal precept. *Phillips v. People*, 51 V.I. 258, 280 (V.I. 2009).

Here, the Superior Court clearly denied Davis's motion based on an incomplete analysis of the *Rieara* decision. While the Superior Court stated that *Rieara* compels one Superior Court judge to defer to the bail decision of a different Superior Court judge in the absence of changed circumstances or new evidence, this Court in *Rieara* made clear that

The fact that [the prior judge] had already reduced [the defendant]'s bail is not a sufficient basis on which to deny the Renewed Motion for Reduction of Bail. When the 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. Any bail or conditions of release that are not tailored to achieve the purpose of bail are considered excessive and therefore unconstitutional. . . . The mere fact that another judge, presented with another motion, had set those conditions is an insufficient basis on which to refuse to modify the conditions, particularly where the defendant's new motion includes additional evidence or new and different proffers.

57 V.I. at 666-67. In other words, while the defendant in *Rieara* did, in fact, present additional evidence, unquestionably the submission of new or different evidence or proffers is not a prerequisite to have an earlier bail decision reconsidered. Accordingly, it is reversible error for a judge to summarily deny such a motion simply because it had been denied by another judge. *See also In re Q.G.*, __ V.I. __, S. Ct. Civ. No. 2013-0099, 2014 WL 807875, at *4 n.8 (V.I. Feb. 28, 2014) (“[T]he decision of a single Superior Court judge . . . is not binding precedent on other Superior Court judges.”) (collecting cases). Thus, since the Superior Court denied Davis's renewed motion solely based on the mistaken belief that one Superior Court judge cannot overturn another Superior Court judge, we reverse the May 22, 2014 Order.¹

III. CONCLUSION

For the foregoing reasons, we reverse the May 22, 2014 Order, and remand the case to

¹ Given the decision to reverse the May 22, 2014 Order, we express no opinion on any of the other issues raised in Davis's notice of appeal or his brief, including his claims that (1) the decision rendered by the first Superior Court judge, whose decision the current Superior Court judge improperly granted deference, itself fails to comply with *Rieara* and Supreme Court Rule 9, and (2) that he did, in fact, present additional evidence or new and different proffers to the second Superior Court judge.

the Superior Court so that it may rule on Davis's emergency motion without affording any deference to the prior judge's January 23, 2014 ruling.

Dated this 14th day of August, 2014.

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