

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

THE PEOPLE OF THE VIRGIN ISLANDS **Plaintiff**)
)
 Vs.)
)
ANSELMO SITO FARRINGTON **Defendant**)

CASE NO. ST-09-CR-0000450

ACTION FOR: 14 V.I.C. 1083 (1)

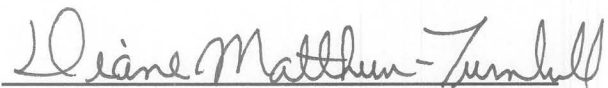
**NOTICE OF ENTRY OF
MEMORANDUM
OPINION AND ORDER**

TO: WILLIAM K. EVANS, ESQ., ASSISTANT ATTORNEY GENERAL
ORDER BOOK
LIBRARIAN
JUDGES & MAGISTRATES, SUPERIOR COURT
JOSEPH A. DIRUZZO, III, ESQUIRE
✓ IT DIVISION

Please take notice that on March 10, 2010 a(n) MEMORANDUM OPINION
AND ORDER dated March 09, 2010 was entered by the Clerk in the
above-entitled matter.

Dated: March 10, 2010

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



DIANE MATTHEW-TURNBULL
COURT CLERK II

SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS,

Plaintiff,

vs.

ANSELMO FARRINGTON,

Defendant.

)
)
)
)
) **CASE NO. ST-09-CR-450**
)
)
)
)
)

MEMORANDUM OPINION

Pending before the Court are (1) Defendant Anselmo Farrington's February 1, 2010, Motion for a New Trial¹ and (2) Defendant's Motion to Continue his March 15, 2010, sentencing hearing. For the following reasons, Defendant's Motion for a New Trial will be denied and Defendant's Motion to Continue will be granted.

ANALYSIS

Defendant requests a new trial on the basis that his mother, Ms. Cynthia Simon, was allegedly prevented from entering the courtroom during jury selection. The motion is not supported by affidavit, nor does Defendant provide any facts to support this allegation.

Trial courts must "take every reasonable measure to accommodate public attendance at criminal trials." *Presley v. Georgia*, 558 U.S. ___, 130 S.Ct. 721, 725 (2010). Before excluding the public from any stage of a criminal trial:

the party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced, the closure must be broader than necessary to protect that interest, the trial court must be broader than necessary to protect that interest, the trial court must consider reasonable alternatives to

¹ On March 2, 2010, the People of the Virgin Islands filed an Opposition and Defendant filed a Reply on March 3, 2010.

closing the proceeding, and it must make findings adequate to support the closure.

Id., at 724.

Defendant has brought this issue to the Court's attention for the first time ten (10) days after Defendant was convicted by a jury. Unlike *Presley*, the Court did not exclude anyone from the courtroom nor issue an order denying access to the public. Unlike *Presley*, no objection of any kind was made by counsel at any time during the course of the proceedings, and there was no other mention of an unfulfilled request to enter the courtroom at any point in the proceedings.

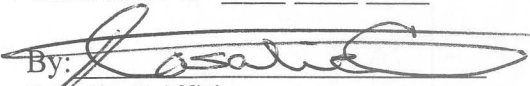
In addition, Defendant has provided no evidence, other than the unsupported allegations of his motion, that indicates his mother was excluded from entering the courtroom. Without more, the Court is not able to determine whether Defendant's right to a public trial was violated. See *Huggins v. Government of Virgin Islands*, 2005 WL 3475784, at *6 (D.V.I. 2005) (court declined to consider whether defendant was denied a public trial because the court could not "determine from [the] record how many individuals were prevented from entering the courtroom, if any, and the reasons for their exclusion"). Accordingly, Defendant's Motion for a New Trial is denied without prejudice.

~~At this time, the Court will also grant Defendant's Motion to Continue his sentencing hearing.~~

An Order consistent with this Memorandum Opinion shall follow.

Dated: March 9, 2010

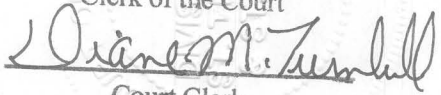
ATTEST: Venetia H. Velazquez, Esq.
Clerk of Court ___/___/___

By: 
Rosalie Griffith
Court Clerk Supervisor 3/10/10


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

CERTIFIED A TRUE COPY

Date: 3/10/10
Venetia H. Velazquez, Esq.
Clerk of the Court

By: 
Court Clerk

SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. ST-09-CR-450
)	
ANSELMO FARRINGTON,)	
)	
Defendant.)	
)	

ORDER

UPON CONSIDERATION of the premises and consistent with the Memorandum Opinion issued herewith, it is hereby

ORDERED that Defendant's Motion for a New Trial is DENIED without prejudice; and it is

ORDERED that Defendant's Motion to Continue the March 15, 2010, sentencing hearing is GRANTED, and the SENTENCING HEARING is continued to May 10, 2010, at 10:30 am; and it is


ORDERED that a copy of this Order shall be served on Defendant and copies shall be directed to counsel of record.

Dated: March 9, 2010



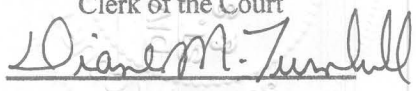
HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

ATTEST: Venetia H. Velazquez, Esq.
Clerk of Court ___/___/___

By: 
Rosalie Griffith
Court Clerk Supervisor 3/10/10

CERTIFIED A TRUE COPY

Date: 3/10/10
Venetia H. Velazquez, Esq.
Clerk of the Court

By: 
Court Clerk