

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 May 12, 2010 a(n) MEMORANDUM OPINION AND ORDER dated May 07, 2010 was entered by the Clerk in the above-entitled matter.

Dated: May 12, 2010

Venetia H. Velazquez, Esa.
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.**) **CASE NO. ST-09-CR-450**
))
) **ANSELMO FARRINGTON,**)
))
) **Defendant.**)
)

MEMORANDUM OPINION

Pending before the Court is Defendant Anselmo Farrington's April 14, 2010, Renewed Motion for a New Trial. For the following reasons, as well as those stated in the Court's March 9, 2010, Memorandum Opinion, Defendant's motion will be denied.

FACTUAL AND PROCEDURAL HISTORY

On February 1, 2010, Defendant filed a motion for a new trial, asserting that his mother, Cynthia Simon, was prevented from entering the courtroom during jury selection. On March 9, 2010, this Court issued an Order denying Defendant's motion because the motion was not supported by affidavit and Defendant did not provide any facts to support his allegation. Now, Defendant submits the affidavits of Cynthia Simon, Ruth Simon, and Shaniqua S. Dawson, who all allege only that they "attempted to enter the Courtroom during jury selection" on January 19, 2010, and were "not permitted to enter said Courtroom." They do not indicate, however, who or what prevented them from entering the courtroom. It certainly was not the Court, because the Court was completely unaware of this issue until ten (10) days after the jury returned its verdict.

ANALYSIS

The Sixth Amendment of the U.S. Constitution indicates that “an accused shall enjoy the right to a speedy and public trial, by an impartial jury” in all criminal prosecutions. *Neder v. U.S.*, 527 U.S. 1, 30 (1999). Accordingly, it is incumbent upon a trial court “to consider all reasonable alternatives” when entertaining the idea of closing a courtroom during jury selection. *Presley v. Georgia*, 558 U.S. ___, 130 S. Ct. 721, 724-725 (2010). When a request for closure is made, a court must *sua sponte* examine alternatives to closure if the parties do not indicate any. *Id.* at 724.

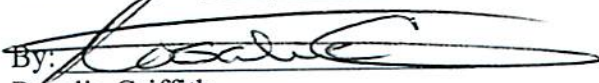
Contrary to Defendant’s assertion, this case does not “false [sic] squarely within the purview of *Presley*.” In *Presley*, the Court actually excluded a person from the courtroom, the defense objected, and the court persisted in the exclusion, none of which are factors present in this case. A trial court’s obligations under *Presley* are limited to circumstances in which the court enters a closure order. There is nothing in *Presley* that suggests that a new trial must be granted because, after a trial is concluded, certain members of the public claim that they were not able to enter the courtroom to attend jury selection for some unidentified reason, presumably by a person, who they do not identify, unbeknownst to all parties involved, including the Court. To hold otherwise would subject every conviction to potential reversal in the absence of a post trial hearing to determine if members of the public were inhibited in any way from entering the courtroom during the proceedings. Given that the Court did not issue a closure order excluding anyone from the courtroom in this case and was not made aware of the

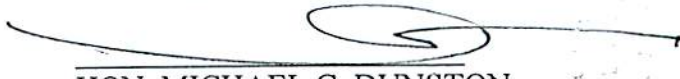
exclusion of anyone, the Court's obligations under *Presley* were not triggered. As a result, Defendant's motion for a new trial will be denied.

An Order consistent with this Memorandum Opinion shall follow.

Dated: May 7, 2010

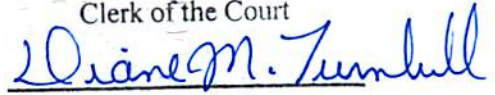
ATTEST: Venetia H. Velazquez, Esq.
Clerk of Court / /

By: 
Rosalie Griffith
Court Clerk Supervisor 5/12/10


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

CERTIFIED A TRUE COPY

Date: 5/12/10
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,)	
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Plaintiff,)	
)	
vs.)	CASE NO. ST-09-CR-450
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ANSELMO FARRINGTON,)	
)	
Defendant.)	
)	

ORDER

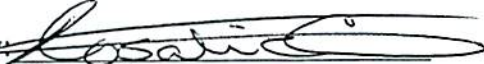
UPON CONSIDERATION of the premises and consistent with the Memorandum Opinion issued herewith, it is hereby

ORDERED that Defendant's Renewed Motion for a New Trial is DENIED; and it is

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

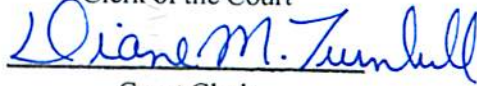
Dated: May 7, 2010

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

By: 
Rosalie Griffith
Court Clerk Supervisor 5/12/10


HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
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