

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS/ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS

)  
Plaintiff )

Vs. )

RUBEN UBILES SANTANA

)  
Defendant )

CASE NO. ST-10-CR-372

ACTION FOR: 14 V.I.C. 922(A)(1);  
14 V.I.C. 2251(A)(2);  
14 V.I.C. 295(1)

NOTICE  
OF  
ENTRY OF JUDGMENT/ORDER

TO: ORDER BOOK

JUDGES AND MAGISTRATES OF THE SUPERIOR COURT

IT DIVISION

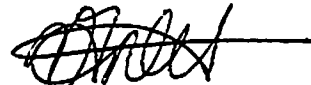
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Please take notice that on JULY 8, 2010 a Memorandum Opinion Order was  
entered by this Court in the above-entitled matter.

Dated: July 14, 2010

VENETIA H. VELAZQUEZ, ESQ.

Clerk of the Superior Court



By: KHALILA FRETT

Court Clerk II

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

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<b>PEOPLE OF THE VIRGIN ISLANDS,</b>	)	
	)	<b>CRIMINAL NO. ST-10-CR-372</b>
Plaintiff,	)	
	)	V.I. Code Ann. tit . 14, §§ 921, 922(a)(1),
v.	)	295(1), 2251(a)(2)
	)	
<b>RUBEN UBILES SANTANA,</b>	)	
<b>(D.O.B.: 06-06-51)</b>	)	
	)	
Defendant.	)	
	)	

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**MEMORANDUM OPINION**

**THIS MATTER** came on for hearing on July 8, 2010, on the People's Motion for Pretrial Detention of Defendant Ruben Ubiles Santana ("Santana" or the "Defendant"). On Sunday, July 4, 2010, at the Advice of Rights Hearing, the People moved for detention of the Defendant pursuant to the terms of § 3 of the Revised Organic Act of 1954, which provides for the pretrial detention of defendants who are charged with first degree murder when "the proof is evident or the presumption great." The People of the Virgin Islands appeared through Michael Motylinski, Esq., Assistant Attorney General. The Defendant was present and represented by Julie Smith Todman, Esq., Territorial Public Defender. For the reasons set forth below, the People's Motion for Pretrial Detention will be granted.

The People called one witness, Detective Cherise Thomas, to the stand during the detention hearing. Detective Thomas testified that she responded to the scene of an alleged homicide at Number 5, Honduras, on Friday, July 2, 2010, and observed an unresponsive female identified as Priscilla Davis ("Davis") lying face down in a pool of blood. She observed a dagger in a box at that time, and also noted a large gaping wound to Davis's right forearm. Detective

Thomas spoke to three witnesses at the scene of the crime. All three witnesses were interviewed and gave written statements, which were consistent with their oral statements to Detective Thomas.

Witness One, an identified individual,<sup>1</sup> is a retired man in his seventies. He stated that he knew Santana and the victim. He further testified that on the date of the incident, Friday, July 2, 2010, he saw Santana sitting on a utility pole outside of Number 5, Honduras. Detective Thomas testified that Witness One then saw Santana knock on the door of the residence, and that when the door was opened, Santana rushed into the house. After Santana had gained entry into the residence, Witness One heard a rumbling sound inside the apartment and heard Davis cry out, "Someone call the police!" Witness One saw Santana when he exited the apartment, and Santana said, "Everything will be all right, I had to teach her a lesson." Witness One looked into the apartment and saw Davis lying on the ground. She was not moving. Witness One said to the police that Davis was dead when he entered the apartment.

Detective Thomas also interviewed Witness Two at the scene. Witness Two is the stepson of Witness One and is in his mid to late forties. He is self-employed and lives in an apartment adjacent to Davis's residence. From Witness Two's vantage point in his residence, he heard a knocking on Davis's door. He also heard a man's voice, saying "I am here to teach you a lesson." He later heard Davis crying out, "Oh God! You're trying to kill me." Witness Two saw Santana changing his shirt and leaving the residence.

Witness Three is also a neighbor of Davis, whose apartment is behind that of Davis. He is about thirty (30) years old and, though currently unemployed, is a chef by occupation. On the

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<sup>1</sup> Out of respect for the interests of privacy of the non-Government witnesses, the Court has not placed their names in this document. All witnesses, though, have been identified.

date of the incident, Witness Three heard an altercation and also heard Davis asking for help and for someone to call police. Witness Three yelled out to Santana "Are you going to kill the woman?" He later saw Santana leaving the apartment and changing his shirt.

Santana was arrested the next day, Saturday, July 3, 2010, and he had ingested medication in a failed attempt at suicide. Santana made several statements to non-law enforcement officers that were either overheard by law enforcement or repeated to law enforcement. Santana stated to one of the nurses that he wanted to die because his girlfriend of fourteen (14) years did not want him any more. He admitted to the nurse that he had beaten and stabbed Davis. At some point, Santana also stated to the nurse that he hoped that Davis was all right. Detective Thomas also heard Santana say to the Emergency Medical Technicians that he did not mean to kill Davis, but he had only vexation and anger in his heart.

Davis died from multiple stab wounds to the upper body, which punctured several vital organs – namely, the liver, heart and lungs. She also had a hematoma on her skull.

There was evidence that Santana and Davis had been intimate, and that they had a nine-year-old daughter. The child was also an eye witness to the murder of her mother, but the child thought that it was her uncle, and not her father, who committed the crime, because she stated that her father was in Puerto Rico.

Pursuant to § 3 of the Revised Organic Act (the "ROA") and recent cases from the Virgin Islands Supreme Court, this Court must determine whether the "proof is evident or the presumption great" that a Murder in the First Degree occurred and that Defendant was the

perpetrator.<sup>2</sup> In *Browne v. People*, the Supreme Court determined that the ROA calls for the denial of bail to a Defendant in a first degree murder case in which the provisions of the ROA have been met. S. Ct. Crim. No. 2008-022, 2008 WL 4132233, at \*9 (V.I. Aug. 29, 2008). The Court said in that opinion that “[Section 3 of the ROA] remains a valid legal provision to be observed and implemented by local courts . . . [and] governs the issue of pretrial detention for first degree murder defendants in local Virgin Islands courts . . . .” *Id.* at \*8, \*9. As articulated in *Browne*, the People “must prove that the proof is evident or presumption great that [the Defendant] committed first degree murder before [he] can be detained justifiably pending trial.” *Id.* at \*10. Although the standard contained in the ROA has been interpreted in different ways in different jurisdictions, the Supreme Court of the Virgin Islands adopted the majority position that “‘the proof is evident or the presumption is great’ evidentiary standard requires something more than probable cause but less than beyond a reasonable doubt.” That is, “a judge must find clear and convincing evidence that the defendant committed the offense for which he is before the court.” *Id.* at \*12. The *Browne* Court interpreted the standard to be applied in this case to require “*clear and convincing evidence*,” which indicates “*that the thing to be proved is highly probable or reasonably certain*.” *Id.* at \*13 (emphasis added) (citing *Black’s Law Dictionary* 596 (8th ed. 2004)).

The Supreme Court of the Virgin Islands later revisited the standard of proof for detention hearings in first degree murder cases in *Jalani Williams v. People*, Crim No. 2009-0111, 2010 WL 1565533 (V.I. April 19, 2010). In *Jalani Williams*, the Supreme Court made it clear that hearsay evidence is permissible in detention hearings under Section 3 of the ROA. *Id.*

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<sup>2</sup> Section 3 of the Revised Organic Act provides that “[a]ll persons shall be bailable by sufficient sureties in the case of criminal offenses, except for first-degree murder or any capital offense when the proof is evident or the presumption great.” 48 U.S.C. § 1561 (2006).

at \*6. However, “when the People elect to present exclusively hearsay evidence at a pre-trial detention hearing, [the Court] when determining whether the evidence is clear and convincing, must undertake by whatever means are appropriate under the circumstances to ascertain the reliability of the underlying hearsay statement when their accuracy is in question.” *Id.* at \*10.

In this case, the Court finds clear and convincing evidence that Santana committed the crime of Murder in the First Degree in this case. Murder is the “unlawful killing of a human being with malice aforethought.” V.I. CODE ANN. tit. 14, § 921 (1996). To find the Defendant guilty of Murder in the First Degree, the People must also prove that the killing was “willful, deliberate and premeditated.”<sup>3</sup> In order to premeditate a killing, one must “conceive a design or plan to kill.” *Virgin Islands v. Lanclos*, 477 F.2d 603, 606 (3d Cir. 1973) (quoting *State v. Anderson*, 173 A.2d 377, 389-390 (N.J. 1961)). A deliberate killing is one that “has been planned and reflected upon by the accused,” and that is “committed in a cool state of the blood” and not in a sudden passion. *Lanclos*, 477 F.2d at 606 (citing *State v. Roedl*, 155 P.2d 741, 749 (Utah 1945)).

There is clear and convincing evidence that Santana murdered Davis, and that the killing was willful, premeditated and deliberate. The witnesses reported that Santana was waiting outside of the victim’s residence and knocked on her door. Neighbors immediately heard a scuffle, as well as sounds from the victim indicating that Santana was killing her. Finally, as he was leaving, Santana changed his shirt, and, as he was walking out, stated that he had taught Davis a lesson. There was also evidence that Santana was supposed to be in Puerto Rico on the

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<sup>3</sup> (a) All murder which –

(1) is perpetrated by means of poison, lying in wait, torture, detonation of a bomb or by any other kind of willful, deliberate and premeditated killing; . . .

-- is murder in the first degree.

V.I. CODE ANN. tit. 14, § 922(a) (Supp. 2010)

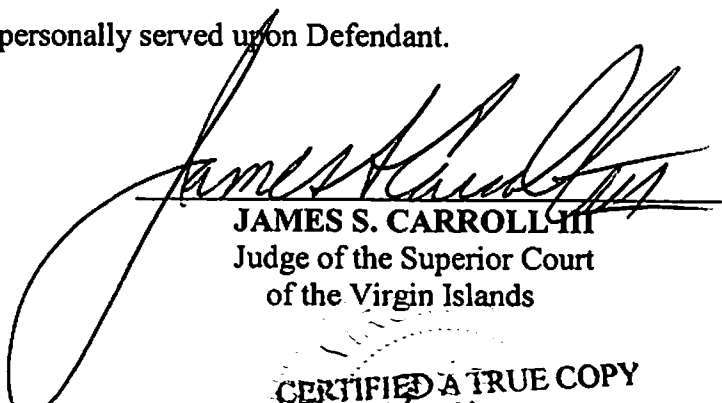
date of the incident. The evidence presented is clear and convincing evidence that the killing of Davis was not something that was the result of passion and that it was not a spontaneous act. Rather, the evidence shows that Santana reflected upon the killing and carried it out with a cool head. Therefore, there is sufficient evidence that Santana's killing of Davis was Murder in the First Degree.

The Court reserved decision at the hearing, because there was also some evidence that the crime may have been committed in the heat of passion. Particularly, there was the evidence of the pre-existing relationship between the parties, Santana's later statement asking if Davis was all right, and also Santana's statement that he did not intend to kill Davis. This evidence may give a jury pause, and may call into question whether Santana did have a plan, and whether the killing was willful and deliberate or committed in the heat of passion. These are questions of fact, though, and the jury will have to determine whether there is proof beyond a reasonable doubt to find Santana guilty of Murder in the First Degree or a lesser homicide, or indeed, whether to find him not guilty. The focus of the detention hearing, though, is not to determine the ultimate guilt of the defendant, but simply to focus on the strength of the People's evidence. *Jalani Williams*, 2010 WL 1565533, at \*4. The Court believes that in viewing this evidence in this light, there is clear and convincing evidence supporting the charge of Murder First Degree, thereby justifying Santana's detention.

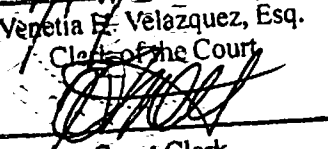
In *Jalani Williams*, the Supreme Court stated that a court faced with hearsay evidence presented in a detention hearing, "must undertake by whatever means are appropriate under the circumstances to ascertain the reliability of the underlying hearsay statements when their accuracy is in question." *Jalani Williams*, 2010 WL 1565533, at \*10. Performing such an analysis, the Court finds that the witnesses' testimony is consistent and the witnesses are

identified individuals who knew both Santana and Davis. Furthermore, the witnesses' statements were reduced to writing and they signed the statements. The written statements are consistent with the oral statements given to Detective Thomas. For these reasons, the Court finds that the hearsay statements supporting Santana's detention are reliable, and that based upon these statements, there is clear and convincing evidence that Santana committed the crime of Murder in the First Degree. The Court will therefore grant the People's motion to detain Santana pending trial by separate order of even date. Copies of this Memorandum Opinion shall be directed to counsel of record and shall be personally served upon Defendant.

DATED: July 13, 2010

  
JAMES S. CARROLL III  
Judge of the Superior Court  
of the Virgin Islands

CERTIFIED A TRUE COPY

Date: 7/19/10  
Venetia H. Velázquez, Esq.  
Clerk of the Court  
By:   
Court Clerk

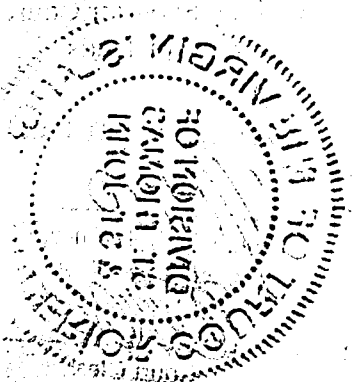
ATTEST: VENETIA H. VELAZQUEZ, ESQ.  
Clerk of the Court  
BY:

  
ROSALIE J. GRIFFITH  
Court Clerk Supervisor 7/13/10



UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D. C. 20535

TO : DIRECTOR, FBI (100-441100)  
FROM : SAC, NEW YORK (100-100000) (P)  
SUBJECT: [Illegible] (C)  
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