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

PEOPLE OF THE VIRGIN ISLANDS,)	CASE NO. ST-2018-CR-00037
	Plaintiff,)	
vs.)	
)	
TREVORNE LAKE,)	
	Defendant.)	
)	

Cite as: 2021 VI Super U103

MEMORANDUM OPINION

- This matter is before the Court on Defendant's Motion to Suppress, filed on April 16, 2021. Also before the Court is the People's Motion to Strike the Defendant's Untimely Motion and Opposition to the Defendant's Motion to Suppress Defendant's Post-Miranda Statement, filed on May 14, 2021.
- This motion to suppress came on for hearing on June 24, 2021. The People were represented by Assistant Attorneys General H. Timothy Perry and Ziska Anderson. Defendant Trevorne Lake appeared and was represented by Assistant Public Defender Mary Ann Matney. Defendant Lake seeks to suppress statements he made during a police interrogation.
- ¶3 Lake argues that statements he made on May 26, 2017, were obtained in violation of his Fifth and Sixth Amendment rights. The People reject that argument,

¹ The motion is fully briefed.

Page 2 of 18

but they also argue that Lake's motion to suppress is untimely, such that the Court

should not consider it on its merits. For the reasons set forth herein, both motions

will be denied.

BACKGROUND AND PROCEDURAL POSTURE

94 At the suppression hearing, the People called one witness, Virgin Islands

Police Department ("VIPD") Detective Cherese Thomas.² The Defendant called two

witnesses: now-retired VIPD Detective Albion George³ and VIPD Sergeant Mario

Stout. 4 The following exhibits were entered into evidence: a subpoena ad

testificandum for Lake, Lake's Advice of Rights Form and Waiver, Lake's statement

to VIPD and the VIPD supplement report.

 $\P 5$ Lake argues that he was in custody at the time that his statement was made,

that his statement was not given freely, that VIPD used the subpoena ad

testificandum for the purposes of coercing him into making a statement, and that his

Miranda rights were violated. As such, Lake argues that his statements should be

suppressed.

² At all times material to the underlying events from May 2017, Detective Thomas was an officer with VIPD. She has since been promoted to detective. Therefore, the Court will state her rank as relevant to the time in question, using "officer" for the events in May 2017, and "detective" when referring to her testimony from the June 24, 2021, suppression hearing.

³ Detective George's last position with VIPD was as homicide investigator.

⁴ At all times material to the underlying events from May 2017, Sergeant Stout was a corporal with VIPD. He has since been promoted to sergeant. Therefore, the Court will state his rank as relevant to the time in question, using "corporal" for the events in May 2017, and "sergeant" when referring to his testimony from the June 24, 2021, suppression hearing.

Cite as 2021 VI Super U103

¶6 The People concede that Lake was in custody at the time his statement was

made but argue that Lake was fully advised of his *Miranda* rights prior to giving his

statement, that he knowingly, voluntarily, and intelligently waived those rights, and

that he made an uncoerced choice to provide a statement to VIPD. The People also

object to Lake's motion to suppress on the grounds of untimeliness.

FACTS

The Court finds the following facts from the suppression hearing.

¶7 On May 16, 2017, Alldix Callwood (hereinafter "Callwood") was shot and killed

in a drive-by shooting in Smith Bay, St. Thomas, U.S. Virgin Islands. Later that day,

Lake became a person of interest in the investigation of Callwood's murder, and VIPD

officers issued a "Be On The Look Out" for Lake.

¶8 On May 24, 2017, the V.I. Department of Justice issued a subpoena ad

testificandum for Trevorne Lake, which ordered "his personal appearance before the

. . . Attorney General of the U.S. Virgin Islands . . . to give testimony in connection

with a criminal investigation . . ." It also "commanded" Lake "to appear before the

Homicide Task Force of the Virgin Islands Police Department to give testimony in

connection with an ongoing investigation . . ." On May 26, 2017, U.S. Customs and

Border Protection ("CBP") agents alerted VIPD that Lake was at the Cyril E. King

Airport on St. Thomas, U.S. Virgin Islands, attempting to leave the island to travel ..

to Florida. CBP held Lake until Officer Thomas and Corporal Stout arrived at the

airport. As a result of his detention, Lake missed his flight to Florida.

People v. Trevorne Lake Case No. ST-2018-CR-00037

Memorandum Opinion

Page 4 of 18

Cite as 2021 VI Super U103

¶9 Officer Thomas and Corporal Stout told Lake they had a subpoena for him. The

officers then transported Lake to the High Intensity Drug Trafficking Agency

("HIDTA") Task Force office, located in Subbase close to the airport, for questioning.

Lake agreed to go with the officers. Officer Thomas and Corporal Stout did not

converse with Lake during the ride from the airport to the HIDTA office, nor did Lake

make any statement before being advised of his rights.

¶10 After arriving at the HIDTA office, Officer Thomas and Corporal Stout escorted

Lake into a room and Detective Albion George joined them. A total of five law

enforcement personnel, including one ATF agent, were present for the interrogation.

The room was large and airconditioned, and the table was large enough to

accommodate all those present. Lake was served with the subpoena ad testificandum

after arriving at the HIDTA office. The law enforcement personnel wore plain clothes,

and they were all armed, but they did not display their weapons, nor did they block

the exits in the room.

¶11 After serving Lake with the subpoena ad testificandum, Detective George

provided Lake with VIPD's standard Advice of Rights Form and Waiver and read

Lake all of the rights delineated on that form. The form stated that Lake had the

right to remain silent; that anything he said could be used against him in court; that

he had the right to talk to a lawyer before VIPD asked any questions; that he had the

right to have a lawyer present for questioning; that if he could not afford a lawyer,

one would be appointed to him before any questioning began; and that if he decided

People v. Trevorne Lake
Case No. ST-2018-CR-00037
Cite as 2021 VI Super U103

Memorandum Opinion

Page 5 of 18

to answer any questions without a lawyer present, he had the right to stop answering

at any time. Lake made no comments prior to being advised of his rights, and, after

being read his rights, Lake indicated that he understood them and wanted to answer

VIPD's questions. Both Detective Thomas and Detective George testified that if Lake

had invoked his right to remain silent or had requested an attorney, then Lake would

have had the right to leave, but that he did not invoke his right to remain silent, he

did not request that an attorney be present, nor did he ask to leave. Detective

Thomas, who has been with the department for 22 years and is assigned to the major

crimes unit, testified that Lake was calm and cooperative and displayed no stress.

She said Lake seemed of typical intelligence with no cognitive or mental issues and

he did not appear to be under the influence of drugs or alcohol during the interview.

Detective Thomas testified that law enforcement made no promises to Lake, they did

not threaten him nor pressure him to give a statement. Detective Thomas also

testified that law enforcement had previous contact with Lake, he had four prior

arrests, he had been *Mirandized* on each of those occasions, and on one such occasion,

Lake declined to answer any questions.

¶12 After being *Mirandized*, Lake stated that he understood his rights and that he

wanted to sign the waiver. At 3:32 p.m., Lake signed the Advice of Rights Form and

Waiver. Detective Thomas testified that she observed Lake sign the waiver, and that

after signing it, he stated that he wanted to provide a statement. The interview lasted

approximately 4.0 hours.

People v. Trevorne Lake Case No. ST-2018-CR-00037

Memorandum Opinion

Page 6 of 18

Cite as 2021 VI Super U103

¶13 Detective George was the lead detective and conducted the questioning. He

used a standard narrative form for the interview; he wrote down his questions as well

as Lake's responses. Lake did not confess to the murder. Instead, Lake denied

shooting the victim and provided an alibi. At no time during the questioning did any

of the officers threaten Lake, make promises to him, or raise their voices. Neither

Detective George nor Detective Thomas could remember if Lake was handcuffed

during his interrogation. The officers did not mention to Lake that they were

investigating Callwood's murder prior to questioning him. Rather, Detective Thomas

testified that when the officers asked Lake if he knew why he was being asked

questions, Lake stated that it was because his name came up in Garnet's murder.6

After questioning concluded, Lake read over his statement and signed it.

14 After Lake signed his statement, the officers drove him directly to where he

requested: a restaurant in Smith Bay, St. Thomas, U.S. Virgin Islands. Detective

Thomas testified that Lake made no statements related to the criminal investigation

during the car ride to Smith Bay. Detective George testified that Lake did not appear

under stress at any point during the car ride to Smith Bay. Both Detective Thomas

and Sergeant Stout testified that Lake even offered them food when they arrived at

⁵ VIPD did not record the interview by audio or video. Detective George memorialized the entire interview as it took place, writing each question and Lake's answer to each question.

"Garnet" was a nickname for Alldix Callwood.

Case No. ST-2018-CR-00037

Memorandum Opinion

Page 7 of 18

his destination. VIPD did not bar Lake from leaving the island, and he flew out the

following day.

Approximately five months later, VIPD arrested Lake for the first-degree ¶15

murder of Callwood.

DISCUSSION

I. Timeliness of Motion to Suppress

A. Legal Standard

Virgin Islands Criminal Procedure Rule 12 addresses pleadings and pretrial ¶16

motions. V.I. R. Crim. P. 12(b)(3) lists the various motions parties can raise before

trial, including a motion to suppress evidence. *Id.* § 12(b)(3)(C). V.I. R. Crim. P. 12(c)

addresses deadlines for pretrial motions and the consequences for failing to timely

file such a motion. Id. § 12(c). The rule specifically states that "[t]he court may, at the

arraignment or as soon afterward as practicable, set a schedule for discovery and

other proceedings, and may establish a deadline for the parties to make pretrial

motions . . ." Id. § 12(c)(1). The rule further states that "[i]f a party does not meet the

deadline for making a 12(b)(3) motion, the motion is untimely. But a court may

consider the defense, objection, or request upon a showing of good cause or in the

interests of justice." *Id.* § 12(c)(3).

Virgin Islands courts have not yet interpreted the term "in the interests of ¶17

justice," but this Court has previously stated that the "interests of justice" does

Case No. ST-2018-CR-00037

Memorandum Opinion

Page 8 of 18

include elements of "fairness and efficient judicial administration." See People v.

Frett, No. ST-2018-CR-00208, 2020 V.I. LEXIS 38, at *5 (V.I. Super. Ct. 2020).

Additionally, this Court has previously opted to consider the merits of a motion,

rather than decide based on its untimeliness, when there are potential constitutional

violations at stake. See People v. Williams, No. ST-2018-CR-00040, 2018 V.I. LEXIS

125, at *5 (V.I. Super. Ct. 2018) (considering a potential Fifth Amendment violation

and finding that "[i]n view of the weightiness of the issues . . . the Court cannot decline

to remove the stain merely because a pretrial motion deadline was not met.").

B. Analysis

¶18 The threshold issue is whether Lake's motion to suppress was sufficiently

untimely as to deny consideration on its merits. The People's motion to strike the

Defendant's motion to suppress argues that the motion to suppress is untimely. The

original Scheduling Order was entered on March 8, 2018. It set a motions' hearing

for September 4, 2018, and it required the parties to file pretrial motions thirty (30)

days prior to such hearing, pursuant to V.I. R. Crim. P. 12(c)(1). However, Lake filed

his motion to suppress over two years after the motions' deadline delineated in the

Scheduling Order. Thus, the motion to suppress is clearly untimely under V.I. R.

Crim. P. 12(c) and the Scheduling Order. However, the Court notes that the trial of

this matter had been continued for various reasons, and as of the date of the filing of

The People's motion to strike is incorporated in its opposition to the Defendant's motion to

suppress.

the motion to suppress, has been delayed due to the Covid-19 pandemic. Therefore,

the untimely filing of the motion to suppress has not delayed the matter. The Court

finds that, in the "interests of justice", it should consider the motion to suppress,

particularly since it raises constitutional arguments. Thus, the motion to strike will

be denied.

II. Motion to Suppress Post-Miranda Statement

A. Legal Standard

¶19 The Fifth Amendment to the United States Constitution states, in pertinent

part, "no person . . . shall be compelled in any criminal case to be a witness against

himself, nor be deprived of life, liberty, or property, without due process of law . . ."

U.S. Const. amend. V. The Fifth Amendment is applicable in the Virgin Islands

pursuant to § 3 of the Revised Organic Act of 1954. Simmonds v. People, 59 V.I. 480,

491 (V.I. 2013) (stating that Congress intended for "the Fifth Amendment to have the

same effect in the Virgin Islands as it does in the states").

¶20 The Sixth Amendment to the United States Constitution states, in pertinent

part, "[i]n all criminal prosecutions, the accused shall enjoy the right to . . . be

informed of the nature and cause of the accusation; to be confronted with the

witnesses against him; to have compulsory process for obtaining witnesses in his

favor, and to have the Assistance of Counsel for his defense." U.S. Const. amend. VI.

The Sixth Amendment is applicable to the Virgin Islands pursuant to § 3 of the

Case No. ST-2018-CR-00037

Memorandum Opinion

Page 10 of 18

Revised Organic Act. Rivera-Moreno v. Government of the Virgin Islands, 61 V.I. 279,

318 n.11 (V.I. 2014).

Interpreting the Fifth and Sixth Amendments, the United States Supreme $\P{2}{1}$

Court has held "the prosecution may not use statements, whether exculpatory or

inculpatory, stemming from custodial interrogation of the defendant unless it

demonstrates the use of procedural safeguards effective to secure the privilege

against self-incrimination." Ramirez v. People, 56 V.I. 409, 418 (V.I. 2012) (quoting

Miranda v. Arizona, 384 U.S. 436, 444, 513 (1966)). Such "procedural safeguards"—

typically referred to as *Miranda* warnings—require a suspect be advised prior to

questioning that:

[H]e has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and

that if he cannot afford an attorney one will be appointed for him prior to any

questioning if he so desires.

Miranda, 384 U.S. at 479.

¶22 Miranda warnings are required for "statements which are the product of

custodial interrogation." Castillo v. People, 59 V.I. 240, 265 (V.I. 2013) (citing Rhode

Island v. Innis, 446 U.S. 291, 300 (1980)). A suspect is "in custody" when they have

been "deprived of freedom of action in any significant way." Ramirez, 56 V.I. at 419

(citing United States v. Thompson, 496 F.3d 807, 810 (7th Cir. 2007)). "Inquiries,

statements or conduct by police officers which in light of the suspect's character are

reasonably calculated to elicit from a suspect an incriminating response constitute an

Memorandum Opinion

Page 11 of 18

interrogation for purposes of the Miranda rule." Castillo 59 V.I. at 265 (citing

Pennsylvania v. Muniz, 496 U.S. 582, 600-01 (1990)).

¶23 A suspect can waive their rights by "choosing to give a statement after the

required warnings have been given." Id. (citing Edwards v. Arizona, 451 U.S. 477,

485-86 (1981)). Waiver of one's Miranda rights must be "knowing, voluntary, and

intelligent when made as a product of the defendant's uncoerced choice at a time

when the defendant understood the nature of the rights being waived and the

consequences of the waiver." People v. Assam, No. ST-2016-CR-00232, 2017 V.I.

LEXIS 157, at *3 (V.I. Super. Ct. Nov. 14, 2017) (citing Moran v. Burbine, 475 U.S.

412, 421 (1986)).

¶24 In a motion to suppress a statement of the accused, the burden ordinarily rests

upon the defendant to establish that the evidence sought to be suppressed was

illegally obtained. Assam, 2017 V.I. LEXIS 157, at *2. Once a violation of Miranda is

"claimed and the accused alleges facts demonstrating that the accused was in custody

and subject to interrogation, the burden shifts to the People to prove by a

preponderance of the evidence that the police complied with Miranda and that the

statement was voluntary." Id. (citing Colorado v. Connelly, 479 U.S. 157 (1986)).

B. Analysis

¶25 Defendant Lake argues VIPD violated his Miranda rights. For Miranda to

apply, a suspect must be (1) in custody and (2) subject to interrogation at the time a

People v. Trevorne Lake Case No. ST-2018-CR-00037 Memorandum Opinion

Page 12 of 18

statement is made. Castillo, 59 V.I. at 265. The parties agree that Lake was "in

custody" when he was questioned. The parties further agree that the VIPD

questioning constituted an "interrogation" under Miranda. VIPD was required to

provide Lake with the associated warnings before they conducted the interview.

Castillo, 59 V.I. at 265. Lake concedes that he was read his Miranda rights and signed

the Advice of Rights Form and Waiver. However, Lake argues that his waiver and

subsequent statement were not freely given and that VIPD therefore violated his

Miranda rights, because the questioning caused him to miss his flight, he was

questioned by numerous officers, including a federal official, and he was "threatened

[with] arrest" if he did not comply with the subpoena ad testificandum. The People

counter that Lake knowingly, voluntarily, and intelligently waived his Miranda

rights. Therefore, the issue before this Court is whether Lake's waiver of his Miranda

rights and subsequent statement were voluntary with no coercion by law

enforcement.

¶26 Given Lake's claim of a *Miranda* violation, it is the People's burden to show

that VIPD complied with Miranda and that Lake's waiver and statement were in fact

voluntary. Assam, 2017 V.I. LEXIS 157, at *2 (citing Connelly, 479 U.S. at 157). "An

express written or oral statement of waiver of [a Miranda right] is usually strong

proof of the validity of that waiver, but is not inevitably either necessary or sufficient

to establish waiver." Castillo, 59 V.I. at 263 (quoting N. Carolina v. Butler, 441 U.S.

369, 373 (1979)). Further determining the validity of a waiver is "whether the

Memorandum Opinion

Page 13 of 18

defendant in fact knowingly and voluntarily waived the rights delineated in

the Miranda case." Id. To be "knowing and voluntary," a waiver must be made with

"full awareness of both the nature of the right being abandoned and the consequences

of the decision to abandon it." Id. (quoting Berghuis v. Thompkins, 560 U.S. 370

(2010)).

¶27 Lake did not ask any questions or attempt to invoke his *Miranda* rights, either

prior to or after receiving those rights both orally and in writing. Lake indicated he

understood and agreed to waive the rights written on the Advice of Rights Waiver

and Form. In addition, Lake was aware of the reason for questioning as when asked

"do you know why you are here today?", he replied, "I am here because my name got

called up in Garnet murder." The Court finds these factors support the People's

argument that Lake's statement and waiver were given knowingly and voluntarily,

because he acknowledged and understood his rights, and still agreed to waive them.

Further, regarding the sufficiency of Lake's waiver, the People rely heavily upon

People v. Assam, which articulates factors a court should consider when addressing

the legitimacy of a Miranda waiver. See Assam, 2017 V.I. LEXIS 157, at *2. Assam

held that "[t]o determine the validity of a Miranda waiver, courts review the totality

of the circumstances based upon such factors as the suspect's intelligence and

education, age, familiarity with the criminal justice system, physical and mental

People v. Trevorne Lake
Case No. ST-2018-CR-00037
Cite as 2021 VI Super U103

Memorandum Opinion

Page 14 of 18

condition, drug or alcohol problems, language barriers, and time lapse between the

reading of the Miranda rights and the questioning or statement." Id. at *3.8

¶28 The People point out Lake was approximately 25 years old at the time of the

interview; there is no information to show Lake is not of typical physical and mental

capacity; there is no evidence Lake has a drug or alcohol problem; Lake indicates that

he reads, writes, and understands English; and the officer's report states that Lake

received his Miranda warnings concurrent with the interview. Thus, the People argue

that Lake's waiver was valid under Assam.

¶29 Detective Thomas' testimony at the suppression hearing supports those

arguments and the Court heard no testimony to the contrary. Lake is not

inexperienced in criminal matters, as he had previously been arrested and advised of

his rights on multiple occasions, on one occasion even refusing to answer any

questions. In the present instance he stated that he knew why he was being

questioned. The witnesses, including one called by Lake, stated that they would have

stopped the interview if Lake had asked for an attorney. The witnesses also

consistently testified that Lake was not stressed, he spoke willingly, and offered food

⁸ In establishing the factors discussed in Assam, the Court cites as examples: United States v. Gaines, 295 F.3d 293, 299 (2d Cir. 2002) (illiterate defendant); United States v. Spruill, 296 F.3d 580, 589-90 (7th Cir. 2002) (9th grade education); United States v. Burrows, 147 F.3d 111, 116 (2d Cir. 1998) (16 year old); United States v. Pruden, 398 F.3d 241, 246 (3d Cir. 2005) (numerous prior contacts); United States v. Cristobal, 293 F.3d 134, 142 (4th Cir. 2002) (surgery, pain, and narcotic medications); United States v. Palmer, 203 F.3d 55, 60-61 (1st Cir. 2000) (heroin withdrawal and antidepressants); Clagett v. Angelone, 209 F.3d 370, 382 (4th Cir. 2000) (intoxication); United States v. Sriyuth, 98 F.3d 739, 750

(3d Cir. 1996) (Thai immigrant in U.S. for 9 years).

Memorandum Opinion

Page 15 of 18

to the officers when they gave him a ride to a restaurant after the interview. The

Court finds that Lake understood the nature of the right being abandoned and the

consequences of the decision to abandon those rights. Therefore, the Court agrees

with the People that analysis of the aforementioned factors displays Lake's

awareness and willingness to give a statement following the Miranda warning, such

that Lake's waiver and statement were voluntary.

¶30 Additionally, the Court finds no evidence of intimidation or coercion by VIPD

in the testimony or exhibits received at the suppression hearing. "Under the Fifth

Amendment '[a] statement is involuntary when it [is] extracted by threats, violence,

or express or implied promises sufficient to overbear the defendant's will and

critically impair his capacity for self-determination." Castillo, 59 V.I. at 266 (quoting

United States v. LeBrun, 363 F.3d 715, 724 (8th Cir. 2004)). A waiver must be "the

product of a free and deliberate choice rather than intimidation, coercion, or

deception." Id. (quoting Berghuis, 560 U.S. at 370). Although there were several

officers in the room while Lake faced questioning, Detective Thomas testified that at

no time during the interview did the officers make threats or promises or raise their

voices. Additionally, the officers' testimony indicates that Lake was calm, cooperative,

and did not seem intimidated or concerned about the questioning during the course

of the interview or thereafter. Again, Lake's offer of food to the officers after the

interrogation is partial proof that Lake was not intimidated or stressed by the law

enforcement officers. Lake never indicated he was intimidated or threatened, and he

told the officers he understood and agreed to waive his Miranda rights. In addition,

the officers took no action that constituted intimidation or threats. The Court

therefore finds that Lake understood the nature of the rights being waived and the

consequences of the waiver. The Court finds that Lake's statement was voluntary and

was not due to threat, intimidation, or coercion. Therefore, given the voluntary and

knowing nature of Lake's waiver and statement, the satisfaction of the Assam factors

establishing a valid waiver, and the lack of coercion or intimidation by VIPD, the

People have met their burden.

¶31 Lake further argues that the use of a *subpoena ad testificadum* was improper

and coercive because V.I. R. Crim. P. 17(h), governing subpoenas, states that "no

party may subpoena a statement of a witness or of a prospective witness under this

rule." V.I. R. Crim. P. 17(h). However, the Virgin Islands Rules of Criminal Procedure

"govern the procedure in all criminal proceedings - including procedures following

arrest, with or without a warrant . . . in the Superior Court of the Virgin Islands." V.I.

R. Crim. P. 1(c)(1) (emphasis added). In addition, the Advisory Note to Rule 1 makes

clear, "The Virgin Islands Rules of Criminal Procedure . . . govern the procedure in

all criminal proceedings in the Superior Court of the Virgin Islands except as

otherwise stated in these rules . . ." V.I. R. Crim. P. 1 advisory committee's note to

2017 adoption. There is no doubt that when Lake was interrogated, he had not yet

been arrested, and there was no criminal case pending against him in the Superior

Court regarding the death of Alldix Callwood. Therefore, the V.I. Rules of Criminal

Procedure did not govern nor preclude the issuance of the subpoena ad testificandum

or Lake's interrogation. Furthermore, as the People point out, the Office of the

Attorney General has the authority to issue subpoenas when investigating a crime.

V.I. Code Ann. tit. 4 §601.

¶32 Nevertheless, the Court will analyze the subject subpoena. The subject

subpoena ad testificandum, marked and admitted into evidence during the

suppression hearing as People's Exhibit M-1, states that "failure to appear at such

time and place (as set forth therein) may lead to the issuance of a WARRANT FOR

YOUR ARREST . . . " Therefore, the subpoena did not threaten Lake with an arrest

or attempt to compel a statement, but rather stated that Lake's failure to appear at

the requested time "may" initiate a "warrant for" his arrest. In this instance, the

subpoena did not contain a date and time to appear. The language of the subpoena

does not display a threat of arrest, and there is nothing in evidence showing any of

the officers on the scene were threatening Lake with arrest. Therefore, the Court

finds that V.I. R. Crim. P. 17(h) does not apply to the subpoena used to stop and

detain Lake, because the Attorney General has the authority to issue subpoenas

when investigating crimes and the language of the subpoena contained no threat of

arrest for refusing to answer questions. In addition, there is no evidence that any

threat of arrest or coercion was displayed by VIPD. The Court finds that the Office of

the Attorney General had the right to issue the subject subpoena and it did not

contain an unlawful threat. Thus, the subpoena was valid and not unlawful.

People v. Trevorne Lake Case No. ST-2018-CR-00037 Memorandum Opinion Page 18 of 18

Cite as 2021 VI Super U103

CONCLUSION

¶33 Defendant's motion to suppress was per se untimely pursuant to V.I. R. Crim.

P. 12(c). However, the Court finds it is in the interests of justice to address the motion

on its merits. Therefore the motion to strike will be denied.

¶34 The Court finds that, based upon the evidence and testimony presented during

the suppression hearing, the People met their burden to show that Lake's waiver and

subsequent statement were voluntary and there was no coercive conduct when VIPD

took Lake's statement. Therefore, the Court finds that Lake's statement was not

obtained in violation of *Miranda*. Accordingly, the Court will deny the Lake's motion

to suppress.

An order consistent herewith will immediately follow.

DATED: October <u>14</u>, 2021

Kathleen Mackay

Judge of the Superior Court

of the Virgin Islands

ATTEST:

TAMARA CHARLES

Clerk of the Court

BY:

LATOYA CAMACHO

Court Clerk Supervisor 10,15,2011