

# The Virgin Islands Consortium

## Trial of Ex-BVI Premier Andrew Fahie Postponed Amid Legal Disputes Over Expert Witness and Foreign Law Application

**Defense and prosecution clash over inclusion of expert testimony and relevance of foreign laws in Fahie's bribery and drug trafficking case**

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**Former BVI Premier Andrew Fahie.**

The criminal trial of former BVI Premier Andrew Fahie has been delayed again. Instead of starting today Wednesday, the trial is now scheduled to begin on January 22, as attorneys for both the prosecution and defense battle over the inclusion of testimony from someone the government intends to call as an expert witness, as well as over whether

the prosecution can seek jury instruction on whether foreign laws are applicable.

On December 19, 2023, federal prosecutors filed a “notice of foreign law determination” with the court, declaring that “certain specified unlawful activity” captured in Mr. Fahie’s [superseding indictment](#) represents “an offense against a foreign nation,” specifically the United Kingdom and the territory of the British Virgin Islands. The activity in question, government lawyers say, is the bribery of a public official, the misappropriation and embezzlement of public funds, and the trafficking of a controlled substance, all punishable under the laws of the BVI.

These actions, prosecutors say, violated sections of the UK’s Bribery Act, and the BVI’s Criminal Code and Drugs (Prevention of Misuse) Act.

In a response filed the next day, Mr. Fahie’s defense counsel moved to strike the government’s notice, saying that it would have forced the defense to scramble, over the seasonal holiday period, to find legal experts in the UK and the BVI in order to respond. Even in the unlikely event of securing the services of such experts during this period, the selected parties would be required to familiarize themselves “with the underlying facts and nuances of the case” within a too-brief period of time.

Arguing that prosecutors had ample time following the November 2022 superseding indictment to indicate that they would be pursuing this angle, Mr. Fahie’s lawyers asked the court to strike the government’s notice along with its anticipated request for jury instructions, “and that the Government be precluded from any attempts...to raise the specter of violation of any foreign law.”

Additionally, the defense has taken issue with the intention of the government to call one of the DEA agents who worked on Mr. Fahie’s case as an expert witness in court. The special agent in question, his lawyers argue, has no relevant credentials in terms of specialized experience, education, or training, to qualify as an expert witness. Additionally, the defense says, “his testimony as a designated co-case agent will inevitably present prejudicial dangers to the Defendant and heighten the risk for jury confusion.”

As such, the government’s notice of intent to offer expert witness testimony must also be stricken, Mr. Fahie’s lawyers say.

In a hearing on January 8, Judge Kathleen Williams considered the several motions before her, and made rulings that have yet to be published on the public court docket. A status conference is now scheduled for January 17 ahead of the trial potentially getting underway on Monday January 22nd.