

The Virgin Islands Consortium

Court Upholds Charge Against Former Corrections Officer For Having Sex With Inmate

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Virgin Islands Superior Court Judge Robert Molloy on Jan. 22 denied three motions filed by Keisha Whyte to dismiss a single charge of engaging in "sexual relations with a detainee" that has been leveled against her. Whyte, 26, was arrested and charged with the crime that happened almost two years ago when she was employed as a corrections officer at the Golden Grove Adult Correctional Facility on St. Croix.

Court records show in the *People of the Virgin Islands v. Keisha Whyte* case that Whyte is accused of having sex with inmate Joh Williams between the dates of Nov. 12, 2012 and Jan. 15, 2013.

In a signed affidavit, Warden Basil Richards stated that a random search of Williams' cell was conducted early on the morning of Jan. 15, 2013. A cellphone was confiscated during the search and video contained on the device showed Whyte, who was employed as a corrections officer at the facility at the time, allegedly engaged in a sexual act with Williams.

Whyte stood in violation of V.I. Code Chapter 14, Section 667(a), which states:

Any person who, when, being an employee working at a prison or detention facility, a contractor or employee of a contractor at a prison or a detention facility, or a volunteer at a prison or detention facility, engages in consensual sexual relations with a person who is in the custody of a detention facility, is guilty of the crime of sexual relations with a detainee and shall be imprisoned not more than 10 years. This does not include any act done for a bona fide medical purpose or an internal search conducted in the lawful performance of an employee's duties.

On July 25, 2013, Whyte filed the three motions to have the charge dismissed, first arguing that "the information is insufficient and does not charge a criminal offense." Secondly, that "the statute is vague and fails to put her on notice of what she must be prepared to defend." And, lastly that "if the court finds that the information is sufficient and the statute is not vague, she is entitled to a bill of particulars."

A hearing was held on Sept. 26, 2014 to address Whyte's motions. However, in a 13-page Opinion released on Jan. 22, Molloy denied each of the motions.

For Whyte's claim that the "information was insufficient to charge offense," Molloy disagreed, stating that, "Under Federal Rules of Criminal Procedure, an information need only contain 'a plain, concise and definite written statement of the essential facts constituting the offense charged' and 'shall state for each count the official and customary citation of the statute, rule, regulation or other provision of law, which the individual is alleged there in to have violated'."

Whyte also claimed that the law is "unconstitutionally vague," and therefore "void," contending that it does not explicitly state "with whom sexual relations is prohibited and it is vague as to what conduct is prohibited."

Court documents say she "strenuously argued that because there is a clear distinction between who is a 'detainee' and a person who is an inmate, the statute does not establish minimum guidelines to govern law enforcement."

Whyte contends that the sexual relations were consensual and that based on Williams' status as an inmate, not a detainee, neither she nor "any other person of ordinary intelligence could know that sexual relations with [Williams] were criminally prohibited."

Molloy disagreed, stating that "a plain reading of the language" of the law "establishes that it is illegal for an employee working in a detention facility to 'engage in consensual sexual relations with a person who is in the custody of a detention facility.'"

He made clear that although the "statute does not define each and every word in the phrase 'person in the custody of a detention facility,' applying the common understanding of these words in everyday usage, the Court finds that this phrase can be readily

understood by a person of ordinary intelligence."

And as for Whyte's argument that the case be dismissed on the grounds of her being entitled to a bill of particulars, but not receiving one, Molloy explained that a bill of particulars is granted to "inform the defendant of the nature of the charges brought against him to adequately prepare his defense, to avoid surprise during the trial and to protect him against a second prosecution for an inadequately described offence."

However, he said such a document was not "warranted" in Whyte's case because the "information pinpoints the act to have occurred at some point within a two-month period. The information also identifies the individuals Whyte is alleged to have had sexual relations with. Moreover, the request for a bill of particulars is weakened where the government has provided substantial discovery."

To read Molloy's full Opinion, go [here](#).

If convicted, Whyte faces up to 10 years behind bars.