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District Court Judge Says Court Erred When it Ruled in Southland Gaming's Favor in Gambling Suit Against GVI, VIGL, Reigniting Hope for New Horse Racing Facilities Territory-Wide

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Ernice Gilbert **July 31, 2020**

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When former V.I. District Court Judge Curtis Gomez [ruled in April](#) that the government of the Virgin Islands and its partner, VIGL Operations, LLC, violated the contract clause of the United States Constitution when the Legislature, through Act 7952, granted VIGL authorization to operate slot machines in St. Thomas in contravention of an agreement the GVI had signed with Southland Gaming in 2003, the judgement cast a cloud of doubt over [the 2016 deal](#) between the GVI and VIGL and the future of horse racing in the territory.

But a July 28 ruling by the court's new judge, Robert Molloy, reversed the court's earlier decision, opining, "The Court is now of the opinion that the resolution of the VLT definition issue is not fully dispositive of Southland's claims and that the Court erred in ruling that they were. As such, the Court finds it necessary to vacate those portions of the April 10, 2020 Order finding a breach of contract and an unconstitutional impairment of contract."

[\[Court Document: July 28 Ruling of Southland Gaming USVI v. GVI and VIGL Operations, LLC\]](#)

Judge Molloy ordered that the portions of the Court's April 10, 2020 Order ruling on the merits of Southland's breach of contract and Contract Clause claims be vacated. He also ordered that the parties file an updated discovery memorandum; and that the parties complete mediation no later than Sept. 4. He also encouraged them to settle the matter.

The order offers hope that VIGL will continue its development of the race tracks territory-wide. The project has seen many [setbacks](#), but the April ruling was the biggest blow to the overall deal, and there were even talks to untie the St. Croix agreement from the St. Thomas project as the matter that held up work on St. Croix was related to St. Thomas gambling operations.

The lawsuit was brought against VIGL and the GVI by Southland Gaming in December 2018. Southland Gaming in 2003 during the administration of former Governor Charles Turnbull, had negotiated a contract to "design, install and operate a video lottery control system, maintain and operate entertainment centers which primarily offers video lottery games and services and maintain video lottery terminals (VLTs) and other related equipment in all applicable locations" in the St. Thomas-St. John district." Critically, the 2003 contract said the GVI "shall not contract with any other party for delivery or management of [VLTs] . . . or any other video lottery services including any equipment, machines, software or operational services and [Southland Gaming] shall be the exclusive supplier to the [GVI] of such VLTs and related services."

The contract was amended for extension in 2013 during the administration of former Governor John P. de Jongh. The extension lengthened Southland Gaming's St. Thomas-St. John District exclusivity to 2028.

At the crux of the matter was whether the "slot machines" contemplated in Virgin Islands Act No. 7952 and/or Virgin Islands Act No. 7953 are the functional equivalent of "video lottery terminals" contemplated in the July 29, 2003, agreement (or its 2013 amendment) between the Virgin Islands Government and Southland Gaming.

In its July 28 ruling, the Court said, "Upon further consideration of this matter, the Court believes that by ruling on the merits of Southland's claims, the April 10, 2020 Order exceeded its expected scope, and the parties were not provided adequate notice of what was on the table. The Court made it clear in several orders that it would be addressing only the narrow question of whether VLTs are the functional equivalent of slot machines. The Court never indicated that the answer to this question finally resolved the merits of this case. Indeed, the Court's orders contemplated the necessity of an additional hearing to address 'the merits of any remaining issues.'"

The video lottery terminals contract defined VLTs as "Any machine in which coins, credits or tokens are deposited in order to play any game of chance in which the results including options available to the player are randomly and immediately determined by the machine. A VLT may use spinning reels or video displays or both and may or may not dispense coins or tokens directly to winning players. VLTs may include a progressive jackpot either individually, in a linked cluster of machines in one location, or in a linked cluster of machines in multiple locations."

The VIGL contract, which was signed into law in 2016, described a slot machine as "any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash or to receive merchandise or any thing of value whatsoever, whether the payoff is made automatically from the machine or in any other manner whatsoever."

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