

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

CASE NO. SX-15-MV-0002974

**ACTION FOR: MOVING VIOLATION WITH
A COURT DATE**

NOTICE OF ENTRY OF ORDER

TO: CLERKS OFFICE
CHRIS GEORGE
ATTORNEY GENERAL
APPELLATE DIVISION

Please take notice that on November 15, 2016 a(n) ORDER dated November 14, 2016 was entered by the Clerk in the above-entitled matter.

Dated: November 15, 2016

Estrella H. George
ACTING CLERK OF THE SUPERIOR
COURT

COURT

RHENESE HALL
COURT CLERK II

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

PEOPLE OF THE VIRGIN ISLANDS,)	CASE NO. SX-15-MV-2974
)	and SX-15-MV-2975
Plaintiff)	
)	TICKET NO. 220548B and 220549B
V.)	
CHRIS GEORGE,)	
)	
Defendant)	
)	

JUDGMENT AND SENTENCE

THESE MATTERS came before the Court for a bench trial on May 5, 2016. Two traffic citations were issued to the Defendant on October 7, 2015 for operating an unregistered and uninsured automobile on the public roads St. Croix, U.S.V.I. The Defendant admits that the automobile he was operating was not registered or insured but argues that this court does not have jurisdiction to decide these matters because the People of the Virgin Islands failed to enunciate a cause of action and that requiring him to register and obtain insurance for his automobile is an infringement on his constitutional right to travel. The People of the Virgin Islands (PVI) charge that on or about October 7, 2015 the Defendant did operate a motor vehicle on the public roadways of Christiansted town in the United States Virgin Islands without first having said motor vehicle registered and insured in violation of Title 20 of the Virgin Islands Code (V.I.C.) §§331 and 712 respectively.

The People were represented by Assistant Attorney General Cynthia B. Moore, Esq. The Defendant appeared personally and testified. The People presented testimony from Police Officer K. Benjamin; the police officer who issued the citations.

It is a well-settled tenant of constitutional law that federal or state governments may adopt legislation, under their police powers, that may affect the rights of an individual when those rights conflict

with the promotion and maintenance of the health, safety, morals, and general welfare of the public. The requirement of registration and insurance on vehicles is a permissible exercise of the territory's police power under the Revised Organic Act of 1954 as amended.

The Government of the Virgin Islands has declared under Title 20 V.I.C §331 that:

"Except as provided in this chapter, no motor vehicle, bicycle, or trailer shall be operated upon the public highways of the Virgin Islands unless – (1) it has been registered by the Director of Motor Vehicles;"

and under Title 20 V.I.C. §712 that:

"Any owner or registrant of a motor vehicle registered in this territory who operates or causes to be operated, a motor vehicle upon any public road or highway in this territory without motor vehicle liability insurance coverage required by this chapter and any other who operates or causes a motor vehicle to be operated and who knows or should know from the attendant circumstances that the motor vehicle is without motor vehicle liability insurance coverage required by this chapter shall be subject, for the first offense, to a fine of not less than \$250.00, nor more than \$500.00."

These are the laws that the People of the Virgin Islands (PVI) are alleging the Defendant has violated and which give rise to the cause of action in the two (2) citations which were issued to the Defendant. The PVI, through its enforcement arm, the Attorney General's Office, have enunciated a set of facts that entitles it to maintain an action in a judicial tribunal. Furthermore, pursuant to Title 4, Section 123(a)(4) of the VIC

"Each Magistrate Judge may:

(4) hear all non-felony traffic offenses...."

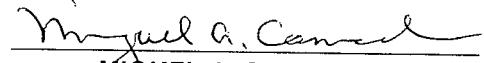
The premises considered, it is hereby

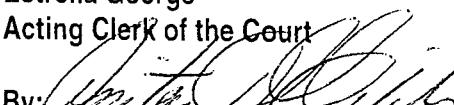
ORDERED that the Defendant is convicted of operating an unregistered automobile in violation of Title 20 VIC §331 and is sentenced to a fine of **One Hundred Dollars (\$100.00)** and court costs of **Seventy-Five (\$75.00)**; and it is further

ORDERED that the Defendant is convicted of operating an uninsured automobile in violation of Title 20 VIC §712 and is sentenced to a fine of **Two Hundred and Fifty Dollars (\$250.00)** and court costs of **Seventy-Five (\$75.00)**; and it is finally

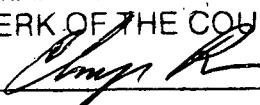
ORDERED that a copy of this **JUDGMENT AND SENTENCE** be served on the parties.

Dated: November 14, 2016
NUNC PRO TUNC to May 5, 2016


MIGUEL A. CAMACHO
Superior Court Magistrate Judge

ATTEST:
Estrella George
Acting Clerk of the Court
By: 
Court Clerk Supervisor

CERTIFIED TO BE A TRUE COPY
This 31st day of Aug 20 10
TAMARA CHARLES
CLERK OF THE COURT

By  Court Clerk III

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

THE GOVERNMENT OF THE VIRGIN ISLANDS

**NOTICE
OF
ENTRY OF JUDGMENT/ORDER**

TO: ATTORNEY GENERAL Esquire **RECORD BOOK**
CHRIS GEORGE Esquire **IT DIVISION**
JUDGES/ MAGISTRATE JUDGES OF THE SUPERIOR COURT Esquire **LAW CLERKS**

Please take notice that on APRIL 6, 2017 _____ Order was
entered by this Court in the above-entitled matter.

Dated: April 6, 2017

ESTRELLA GEORGE

Clerk of the Superior Court

By: TAMARA CHARLES

CHIEF DEPUTY CLERK

SUPERIOR COURT OF THE VIRGIN ISLANDS
APPELLATE DIVISION OF ST. CROIX

SUPREME COURT

2017 APR 18 SX-15
9:30

CHRIS GEORGE,] CASE NO. SX-16-RV-002
Petitioner,] (RE: Case Nos. SX-15-MV-2974 and SX-15
v.] MV-2975)
PEOPLE OF THE VIRGIN ISLANDS,]
Respondent.]

ORDER

AND NOW, consistent with the reasons given in the accompanying Memorandum Opinion of even date, it is hereby

ORDERED that the Magistrate Court's November 15, 2016 Judgment, memorializing its decision announced orally from the bench on May 5, 2016, denying Chris George's motion to dismiss is AFFIRMED. It is further

ORDERED that copies of this Order and the accompanying Memorandum Opinion be directed to the parties.

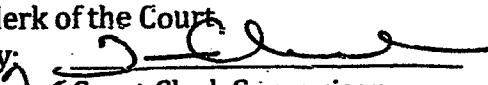
DONE AND SO ORDERED.

Date: April 5, 2017

ATTEST:

ESTRELLA H. GEORGE

Clerk of the Court

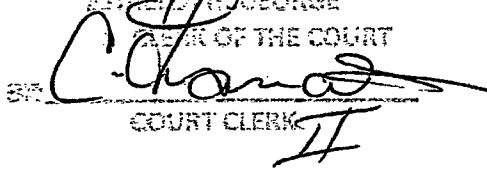
By: 

Court Clerk Supervisor

Dated: 4/5/17


ROBERT A. MOLLOY
Judge of the Superior Court

CERTIFIED A TRUE COPY

DATE: 4/6/17
ESTRELLA H. GEORGE
CLERK OF THE COURT

COURT CLERK

THE FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE

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La *U.S. Fish and Wildlife Service* (USFWS) ha recomendado que se establezca una zona de caza de búfalo en el parque nacional de Yellowstone.

led soldiers took up their positions on the heights above the village of **Chapelle**.

SCHLESINGER AND HORNSTEIN

THE PRACTICE OF POLYGRAPHY

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1.6.1. *Integrating with the entity*

第六章 分析方法

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THE FEDERAL BUREAU OF INVESTIGATION

1. *What is the relationship between the two main characters?*

**SUPERIOR COURT OF THE VIRGIN ISLANDS
APPELLATE DIVISION OF ST. CROIX**

CHRIS GEORGE,)	CASE NO. SX-16-RV-002
)	
Petitioner,)	(RE: Case Nos. SX-15-MV-2974 and SX-15-
)	MV-2975)
v.)	
)	
PEOPLE OF THE VIRGIN ISLANDS,)	
)	
Respondent.)	
)	

On Review from the Magistrate Division
District of St. Croix
Superior Court Magistrate Judge: Hon. Miguel A. Camacho

APPEARANCES:

CHRIS GEORGE

Frederiksted, VI 00840

Pro se Petitioner

CYNTHIA B. MOORE, ESQ.

Assistant Attorney General

Virgin Islands Department of Justice

6040 Estate Castle Coakley,

Christiansted, VI 00820

Attorneys for Respondent¹

MEMORANDUM OPINION

MOLLOY, Robert A., Judge.

THIS MATTER is in the Appellate Division on review from the Magistrate Division. The police issued two citations to Chris George ("Chris"²) and he filed a motion to dismiss both, arguing, *inter alia*, that he was travelling, not driving, when the police stopped him. The Magistrate Court

¹ Counsel did not appear on review for the respondent, People of the Virgin Islands. Counsel named above appeared before the trial court.

² During oral argument, Chris George corrected the Magistrate Court, stating "My name is Chris, not Mr. George." (Trial Tr. 31:25-32:1, May 5, 2016.) The Court will likewise refer to the defendant / petitioner on review as Chris throughout this opinion.

heard argument on Chris' motion, denied it from the bench, and proceeded with trial. Chris was found guilty of both petty offenses and sentenced to pay fines and court costs. He filed a petition for review in the Appellate Division. On review, Chris claims the Magistrate Court erred in denying his motion to dismiss. For the reasons stated below, the Court affirms the denial of Chris' motion.

I. FACTUAL AND PROCEDURAL BACKGROUND

Officer Keisha Benjamin, along with other officers of the Virgin Islands Police Department, were "conducting a traffic initiative in the vicinity of Company and Church Streets" in Christiansted on October 7, 2015. (Trial. Tr. 55:19-20, May 5, 2015.) Officer Benjamin noticed a truck turning from Hospital Street onto Company Street. The truck did not have a current registration sticker affixed to the windshield. Benjamin stopped the truck, asked the driver for "his documents and his registration and his insurance and discovered that they were expired." *Id.* at 55:24-25. She asked the driver, later identified as Chris George, "if he had up-to-date registration and insurance." *Id.* at 56:1. He did not. So Benjamin issued him two "citations for operation of [an] unregistered and uninsured vehicle." *Id.* at 56:6-7. The police also towed Chris' truck away.

Both citations were filed in the Superior Court on October 16, 2015. The first citation, number 220548 and assigned case number SX-15-MV-2974, charged Chris with operating an unregistered motor vehicle on a public highway in violation of Section 331 of Title 20 of the Virgin Islands Code. The other citation, number 220549 and assigned case number SX-15-MV-2975, charged Chris with operating a motor vehicle on public roads without insurance in violation of Section 712 of Title 20 of the Virgin Islands Code. The Clerk's Office assigned both cases to the same magistrate judge and calendared trial for both cases on February 25, 2016.

On January 13, 2016, Chris, representing himself, filed a motion in each case to dismiss the

charge. Chris' motion challenged the authority of the police, the jurisdiction of the court, and the laws of the Virgin Islands. Although Chris had filed his motions over a month before the parties were scheduled to appear on February 25, 2016, the Magistrate Court continued trial to allow the prosecution time to respond to Chris' motion and Chris time to reply to their response. The People filed their response in opposition on May 4, 2016. Chris filed his reply the same day.

The parties appeared before the Magistrate Court for trial on May 5, 2016.³ Chris represented himself. The People appeared through counsel. Before proceeding with trial, the Magistrate Court heard argument on Chris' motion to dismiss and then denied it from the bench. Over Chris' objection, trial proceeded. The prosecution called Officer Benjamin to testify, moved both citations into evidence, and rested. Chris did not cross-examine Officer Benjamin or testify in his defense. The court found him guilty on both counts, fined him \$100 for operating an unregistered vehicle, \$250 for operating an uninsured vehicle, and \$150 in combined court costs for both cases. The Magistrate Court did not reduce its decision to a written judgment until November 15, 2016, which the Clerk's Office entered the next day.

In the interim, Chris filed a petition on May 9, 2016 for review. He also requested a transcript of the bench trial, which was submitted on June 20, 2016. In his petition, Chris asked that the Appellate Division waive the briefing requirement. The judge to whom this review was initially assigned granted Chris' request, but only as to his right to file a brief, not as to the People's right to file a brief. The court did, however, give the People a deadline to respond. They did not and therefore forfeited the right to be heard on review. See Super. Ct. R. 322.1(i)(G)(ii) ("If a respondent fails to file a responsive brief within the time provided by these rules . . . the respondent shall lose any

³ Trial was initially continued trial to April 7, 2016 and on April 7, 2016 to May 5, 2016.

further opportunity to be heard in the review proceedings.”). This matter was reassigned to the undersigned judge upon the prior judge’s recusal *sua sponte*. *See generally People v. Chris*, Case No. SX-16-RV-002, 2017 V.I. LEXIS 48 (Super. Ct. App. Div. Mar. 22, 2017).

II. JURISDICTION AND STANDARD OF REVIEW

The Magistrate Division has original jurisdiction over all non-felony traffic offenses. *See 4 V.I.C. § 124(b)* (“The Magistrate Division of the Superior Court has exclusive jurisdiction over all traffic offenses, except felony traffic offenses.”). “Superior Court magistrates—and Superior Court judges sitting in the Magistrate Division—serve as the trial court in an original jurisdiction case, presiding over the case from commencement through dismissal or issuance of a judgment.” *David v. People*, SX-15-RV-007, 2016 V.I. LEXIS 15, *9 (Super. Ct. App. Div. Feb. 22, 2016) (internal citation omitted). “Because cases in the Magistrate Division are decided without a jury, the magistrate court hears the testimony and considers the evidence before finding the facts and applying the law.” *Carlos Warehouse v. Thomas*, 64 V.I. 173, 180 (Super. Ct. App. Div. 2016) (citing *In re: Estate of Small*, 57 V.I. 416, 428-29 (V.I. 2012)).

Here, the Magistrate Court held a bench trial on May 5, 2016, found Chris guilty on both counts, and imposed a fine and court costs for both cases. Chris sought review on May 9, 2016. However, the court did not reduce its oral decision to writing until November 14, 2016, which the Clerk’s Office entered on November 15, 2016. Parties may seek review before the magistrate court reduces its judgment or other dispositive order to writing. But a review is not deemed filed until the magistrate court’s written judgment or decision is entered. *See Super. Ct. R. 322.1(b)(2)(C)* (“Where a petition for review is filed after an oral decision but before entry of a written order or judgment, it is deemed filed as of the date of the written order or judgment appealed from.”). Thus, Chris’

review was not "deemed filed" until November 15, 2016. Because he filed for review months earlier, the Appellate Division has jurisdiction over this internal appeal.

On review, judges in the Appellate Division "function like an appellate court with the Magistrate Division functioning as the trial court." *David*, 2016 V.I. LEXIS 15 at *9 (quotation marks and citations omitted).

[T]he Appellate Division judge must address the arguments raised in the parties' briefs unless the court finds any of the arguments have been waived. When considering the arguments raised on review, the appellate court defers to the facts found by the magistrate court, including which witnesses' testimony to credit and how much weight to give such testimony. However, the appellate court does not defer to the law the magistrate court applied. Instead, questions of law are reviewed under a plenary standard.

Id. at *9-10 (quotation marks, ellipses, and citations omitted).

III. DISCUSSION

Chris raises three errors on review, each within the May 9, 2016 petition: "(1) no case or cause of action; (2) failed to prove commerce was being conducted; (3) erroneously substituted [his] right to travel for a privilege to drive." (Pet'r's Pet. for Review 1, filed May 9, 2016.) Chris claims that "none of [his] arguments in [his] motion to dismiss were rebutted, but the Magistrate [Court] denied [his] motion and proceed to trial." *Id.* Chris also claims the Magistrate Court proceeded with trial over his objection, without establish its jurisdiction first. *See id.* ("I objected to the trial on the ground that the court failed to establish jurisdiction and had no authority to reach [the] merits." (citing *Melo v. United States*, 505 F.2d 1026 (8th Cir. 1974))). Chris raised each ground in his January 13, 2016 Motion to Dismiss and has preserved them for appellate review. *Cf. Gardiner v. Diaz*, 58 V.I. 199, 205 n.5 (V.I. 2013) ("[T]he Appellate Division of the Superior Court should, as a routine matter, address the arguments raised before it in the parties' briefs. If the Appellate Division determines

that an appellant has waived any of the arguments raised in the brief, it should so indicate.”)⁴

Chris’ motion—as well as his reply to the People’s response in opposition and the arguments he made in court—all boil down to the same few points. Chris first argued that he was not driving his truck when Officer Benjamin stopped him, but rather traveling in his truck. (Trial Tr. 9:22-10:5.)

THE COURT: Are you supposed to have a registered vehicle?

THE DEFENDANT: A registered vehicle? I don’t drive a vehicle.

THE COURT: What were you driving?

THE DEFENDANT: I drove—correction! I traveled in my truck.

THE COURT: Isn’t that a vehicle?

THE DEFENDANT: It’s not a vehicle!

(Trial Tr. 9:22-10:5.) Travelling is not the same as driving according to Chris.

THE DEFENDANT: The term travel means to journey or pass through or over, as a country, district, road, et cetera; to go from one place to another, whether on foot or horseback, maybe even on someone’s back or in any conveyance as a train, an automobile, carriage, ship or aircraft, make a journey. So whether I’m on foot, whether I’m on horseback, someone’s back, whatever, in my automobile, my truck my jeep, whatever, I’m traveling.

Id. at 16:16-24 (paragraph break omitted). (See also Def.’s Mot. to Dismiss 5, filed Jan. 13, 2016,

People v. George, SX-15-MV-2947 (“There are United States court cases that confirm and point out the difference between the ‘right’ of the people to travel and a government ‘privilege’ to drive.”).⁴

[T]erms such as ‘driver,’ ‘driving,’ ‘vehicle,’ etc., are all related to commercial activities,” Chris asserted. (Def.’s Reply to People’s Opp’n 9, filed May 4, 2016.) So “any application of the traffic statute outside of that construct renders it unconstitutional,” he claimed. *Id.* Chris conceded that the

⁴ Superior Court Rule 322.1(h)(1) directs that the record on review constitutes “[t]he original case file, to include all exhibits and evidence taken by a magistrate in consideration of the case, and the transcript of proceedings, if any.” In 2015, the Clerk “adopted a new internal procedure whereby petitions for review filed with the Appellate Division . . . are assigned a new case number.” *David*, 2016 V.I. LEXIS 15 at *8 n.1 (quotation marks and citation omitted). However, “there is no Appellate Division rule at present that requires the parties to prepare and submit the trial court record in the internal appeal case.” *Id.* at *14 n.2. Thus, the Appellate Division judges must still review the documents filed in the trial court when deciding internal appeals. Cf. *id.* In this instance, there are two original case files, SX-15-MV-2974 and SX-15-MV-2975. Because the documents pertinent to this review are the same for both cases, excluding the charging documents, all citations to the record are to the case ending in 2974.

Government can make people lose their driving privileges if they drive a vehicle without car insurance, but only "as it applies to commercial activities." *Id.* (citing *Gov't of the V.I. v. Cover*, 16 V.I. 321, 326-27 (Terr Ct. 1979). Driving a motor vehicle is a commercial activity, Chris argued. (*Cf.* Trial Tr. 15:1, 22-24 ("I manage my car. I don't drive. . . . I am not employed when I travel in a truck. I am not conducting any business.").) Since Chris was not engaged in commerce when Officer Benjamin stopped him, she had no authority, he claimed, to cite him with any violations of Virgin Islands vehicle and traffic law. Thus, if the police officer lacked authority to issue him a citation, the prosecutor lacked authority to file a case against him, and the trial court lacked jurisdiction to try the case. *Cf. id.* at 17:19-24 ("Again, the government has no jurisdiction over me in my private truck when I'm traveling on the road. I was not conducting any commercial activity because Federal or State government can only regulate commercial activity, not private individuals.").

In denying Chris' motion to dismiss, the Magistrate Court ruled from the bench that

operating a motor vehicle on the highways of this territory [is] regulated by the executive branch, which is their right as a police power to enforce the legislation that's been passed by duly appointed persons of this community. And they have passed regulations to regulate traffic. And one of those regulations is that anybody operating a motor vehicle on the highways has to have their vehicle registered and insured. Your vehicle was not registered or insured. Your motion to dismiss is denied.

Id. at 54:2-11 (paragraph break omitted). In later reducing its decision to writing, the court explained further that "[i]t is a well-settled tenant of constitutional law that federal or state governments may adopt legislation, under their police powers, that may affect the rights of an individual when those rights conflict with the promotion and maintenance of the health, safety, morals, and general welfare of the public," and concluded that "[t]he requirement of registration and insurance on vehicles is a permissible exercise of the territory's police power under the Revised Organic Act of 1954 as amended." (Jgmt 1-2, entered Nov. 15, 2016.) After careful consideration, the

Court must reject Chris' claims of error and affirm the Magistrate Court's denial of his motion to dismiss.

Chris' challenge to the Magistrate Court's jurisdiction is rejected. See 4 V.I.C. § 124(b) ("The Magistrate Division of the Superior Court has exclusive jurisdiction over all traffic offenses, except felony traffic offenses."); accord *People v. Melendez*, SX-16-RV-003, 2017 V.I. LEXIS 49, *15 (Super. Ct. App. Div. Mar. 22, 2017) ("The Virgin Islands Code vests jurisdiction over non-felony offenses of the vehicle and traffic laws of the Virgin Islands in the Magistrate Division of the Superior Court.

Superior Court magistrate judges are assigned to the Magistrate Division where they hear all non-felony traffic offenses." (quotation marks and citations omitted)).

Chris' claims of error are also rejected. Chris admitted that he stopped purchasing insurance and stopped registering his vehicle years ago once he "saw the light after [he] got injured from being a police officer." (Trial Tr. 31:18-19.) It was then that he began "to conduct [his] own research in these matters." *Id.* at 31:19-20. His research has led him astray.⁵ As the Magistrate Court explained, the Virgin Islands Code equates operator with "a chauffeur, [a] driver, or any person operating a motor vehicle." (Trial Tr. 49:18-19) (quoting 20 V.I.C. § 101.) Motor vehicles include "all vehicles

Chris was correct on one technical point, that there is no victim, *per se*, in this case, not in the sense that the word is most commonly used." *People v. Melendez*, SX-16-RV-003, 2017 V.I. LEXIS 49, *10 (Super. Ct. App. Div. Mar. 22, 2017). (Cf. Trial Tr. 47:12-15 ("[P]resent me the victim that is required by law so that I may be able to face them. Because the government cannot be the victim.").) Rather, the victim is "the community as a whole." *Melendez*, 2017 V.I. LEXIS 49 at *10 (citations omitted). As the Magistrate Court explained, "[t]he victim is the State. . . . The people that represent all of us." (Trial Tr. 42:15-21.)

The people vote. They people are the ones that put the governor, who is the head [of] the executive branch, the senators who control the legislative branch, and the governor [s]elects the judges that sit in the Superior Court. . . . There you have the people selecting those people who are making the laws that you are contesting now. They are your people. . . . And the people are injured because you have violated what they have put in the books or they say.

Id. at 44:4-19 (paragraph breaks omitted). Accord *Cover*, 16 V.I. at 326 ("Because this is a law which affects a large segment of the population—practically all adults as drivers, and the entire population as potential victims—it must be applied evenhandedly." (emphasis added)).

propelled by power other than muscular, except those running upon rails or tracks, road rollers, tractors, and self-propelled plows and golf carts." 20 V.I.C. § 101. Chris was not pushing his truck onto Company Street on October 7, 2015 when Officer Benjamin stopped him. He was operating or, in other words, driving his truck.

That said, under Virgin Islands law, persons are licensed to *operate* motor vehicles, not to *drive* them. *See, e.g.*, 20 V.I.C. § 371(a) ("[N]o person shall *operate* a motor vehicle upon the public highways without an *operator's license* issued by the Director of Motor Vehicles." (emphasis added)); *id.* § 373 (c) ("An *operator's license* is valid for five years and expires on the licensee's birthday in the fifth year after issuance." (emphasis added)); *id.* § 375(a) ("Before issuing an *operator's license*, the Director of Motor Vehicles may require such proof as he deems necessary that an applicant is physically and mentally fit to *operate a motor vehicle*." (emphasis added)). Moreover, it is common for judges, lawyers, legislators, and even the public in general to speak of driver's licenses in the Virgin Islands, not operator's licenses. *Compare Cover*, 16 V.I. at 322 ("The defendant in this action was charged on January 29, 1979, with *operation* of an uninsured motor vehicle." (emphasis added)), *with id.* at 323 ("if you plead guilty or you are found guilty of *driving* without insurance, you lose your driver's license for six months." (emphasis added)).⁶ But the distinction between driver and operator has no significance under the law because the law directs that the words "operator" and "driver" are synonymous. *See* 20 V.I.C. § 101. Further, both words are used interchangeably throughout the Virgin Islands Code. *Compare* 20 V.I.C. § 493(a) ("It is unlawful for

⁶ The discussion in *Cover* regarding the automatic suspension of operating, or driving, privileges is no longer current. Section 712 of Title 20 of the Virgin Islands Code governs at present and directs that suspension occurs upon the second and all subsequent convictions. *See* 20 V.I.C. § 712 ("Upon subsequent conviction, he shall be fined not less than \$500.00, nor more than \$1,000.00, and shall forfeit his right to operate a motor vehicle upon the roads and highways of this territory for a period of not less than thirty (30) days, or more than two (2) years from the date of his conviction.").

any person who is under the influence of an intoxicating liquor or a controlled substance...to drive, operate, or be in actual physical control of, any motor vehicle within the Territory."), and *id.* § 493(c)(1)(A) ("[U]pon a first conviction for a violation of subsection (a) hereof, the court may suspend or revoke, for a period of six months...the license to operate a motor vehicle of the person so convicted if the person possesses such license."), with *id.* § 493(c)(1)(C) ("After a person's driving privileges have been suspended or revoked for at least 30 days under this paragraph, the person may petition the court for a restricted license and the court may order the Police Commissioner to issue a restricted driving license for the remainder of the period of suspension or revocation."). See also, e.g., 14 V.I.C. § 481(b) ("A child who commits a second or subsequent violation of the curfew herein while *operating* a motor vehicle may have their *driver's license* suspended for not more than six (6) months." (emphasis added)); 20 V.I.C. § 465(b) ("Every motorcycle, operated or driven upon the public highways, shall be equipped with adequate brakes in good working order and sufficient to control such motorcycle at all times."); *id.* § 496 ("Every person operating a motor vehicle shall, on a signal by a person riding, leading, or driving horses or other draught animals, bring the motor vehicle to a stop, and if traveling in the opposite direction, remain stationary as long as may be reasonable to allow such animals to pass. If traveling in the same direction the driver of the motor vehicle shall use reasonable caution.").

Chris' construction of Virgin Islands law is incorrect. When operator and driver are viewed synonymously (and "construed according to the common and approved usage of the English language," 1 V.I.C. § 42, Chris' challenge fails. Section 331 of Title 20 of the Virgin Islands Code directs that "no motor vehicle, bicycle, or trailer shall be operated upon the public highways of the Virgin Islands unless...it has been registered by the Director of Motor Vehicles." 20 V.I.C. § 331(1).

And before a motor vehicle can be registered by the Director of Motor Vehicles, "the owner of the vehicle [must file] with the Police Commissioner [sic] proof of coverage by a satisfactory 'owner's' policy of liability insurance."⁷ 20 V.I.C. § 701. Proof that a vehicle is insured is necessary before a vehicle can be registered. The two go hand in hand.

Like every other government in the United States, the Government of the Virgin Islands "has the authority, the responsibility, the right to regulate activities between its citizens." (Trial Tr. 33:14-15.)

The primary purpose of compulsory motor vehicle liability insurance laws is to compensate innocent victims who have been injured by the negligence of financially irresponsible motorists. To that end, the Virgin Islands Legislature imposed penalties on any owner or registrant of a motor vehicle registered in this territory who operates or causes to be operated, a motor vehicle upon any public road or highway in this territory without motor vehicle liability insurance coverage required" and "any other who operates or caused a motor vehicle to be operated and who knows or should know from the attendant circumstances that the motor vehicle is without motor vehicle liability insurance coverage."

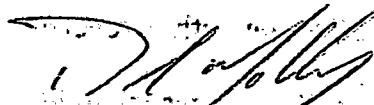
Krind v. Barlow, 44 V.I. 293, 298-99 (Terr. Ct. 2002) (citing *Cover*, 16 V.I. at 326) (quoting 20 V.I.C. § 712). Similarly, "[a]n unregistered vehicle gives the motoring public no assurances that it is fit to traverse the public roads and makes it a danger to the greater community." *Allen v. People*, 59 V.I. 631, 637 (V.I. 2013). Chris admitted that he did not comply with the requirement to insure his vehicle or to register his vehicle. He contends instead that the Government cannot make him do so. The Magistrate Court rejected his arguments. On review, this Court finds no error.

⁷ "In 2005, the Legislature amended the Virgin Islands Code to substitute 'Director of Motor Vehicles' for 'Commissioner of Police' throughout multiple chapters in Title 20. *People v. Rohn*, 55 V.I. 100, 111 n.3 (Super Ct. 2011), *rev'd on other grounds*, 57 V.I. 637 (V.I. 2012). Section 701 is located within chapter 47 of Title 20 and still directs that proof of insurance must be filed with the Police Commissioner, not the Director of Motor Vehicles. The practice, however, is that proof of insurance is submitted to the Bureau of Motor Vehicles. It appears that, in replacing most (if not all) of the references to "Commissioner of Police" throughout Title 20, the Legislature neglected to include references to "Police Commissioner" as well. The statute is quoted above as it stands.

IV. **CONCLUSION**

Accordingly, for the reasons stated above, the Magistrate Court's decision to deny Chris' motion to dismiss the citations—operating an unregistered vehicle and operating an uninsured vehicle—is affirmed.

Date: April 5, 2017


ROBERT A. MOLLOY
Judge of the Superior Court

ATTEST:

ESTRELLA H. GEORGE

Clerk of the Court

By: 

Court Clerk Supervisor (Concurrent with Clerk of the Superior Court)

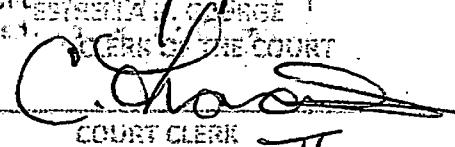
Dated: April 5, 2017

WITNESS: I, ESTRELLA H. GEORGE, Clerk of the Superior Court, do hereby certify that the foregoing is a true copy of the Court Clerk Supervisor's concurrent signature on the original document. I further certify that the original document was executed on the date indicated above and is in my possession. I further certify that the original document is in my office and is available for inspection.

4/6/17 BY: COURT CLERK, ESTRELLA H. GEORGE, CLERK OF THE COURT

RECORDED IN THE OFFICE OF THE CLERK OF THE COURT, 4TH FLOOR, 1000 BROADWAY, DENVER, COLORADO, ON APRIL 6, 2017, AND INDEXED. I CERTIFIED A TRUE COPY.
ESTRELLA H. GEORGE, CLERK OF THE COURT, 4TH FLOOR, 1000 BROADWAY, DENVER, COLORADO, ON APRIL 6, 2017.

BY:


COURT CLERK

For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

CHRIS GEORGE,
Appellant/Petitioner,

v.

PEOPLE OF THE VIRGIN ISLANDS,
Appellee/Respondent.

) **S. Ct. Crim. No. 2017-0042**
) Re: Super. Ct. RV. No. 002/2016 (STX)
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SUPREME COURT

2018 JUL -5 PM 4:03

On Appeal from the Superior Court of the Virgin Islands
Division of St. Croix
Superior Court Judge: Hon. Robert A. Molloy

Considered: February 13, 2018
Dated: July 5, 2018

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice; and
IVE ARLINGTON SWAN, Associate Justice.

APPEARANCES:

Chris George
St. Croix, U.S.V.I.
Pro se.

Royette V. Russell, Esq.
Assistant Attorney General
St. Croix, U.S.V.I.
Attorney for Appellee.

ORDER OF THE COURT

CABRET, Associate Justice.

AND NOW consistent with the reasons given in the accompanying opinion, it is hereby
ORDERED that the April 6, 2017 memorandum opinion and order of the Appellate

July 5, 2018

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

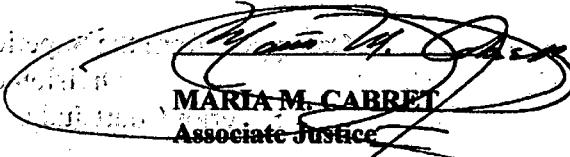
George v People
S. Ct. Crim. No. 2017-0042
Order of the Court
Page 2 of 2

Division of the Superior Court is **AFFIRMED**; and it is further

ORDERED that copies of this order be directed to the appropriate parties.

SO ORDERED this 5th day of July, 2018.

BY THE COURT:



Maria M. Cabret
Associate Justice

ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court

By: 
Deputy Clerk

Dated: 7/5/2018

Copies to (with accompanying Opinion of the Court):

Justices of the Supreme Court

Judges and Magistrate Judges of the Superior Court

Chris George, *Pro se*

Royette V. Russell, Esq., Assistant Attorney General

Veronica J. Handy, Esq., Clerk of the Supreme Court

Estrella H. George, Clerk of the Superior Court

Joseph T. Gasper II, Esq., Superior Court Law Librarian

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For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

CHRIS GEORGE,
Appellant/Petitioner,

v.

PEOPLE OF THE VIRGIN ISLANDS,
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2018 JUL - 5 PM 4:03

SUPREME COURT

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APPEARANCES:

Chris George
St. Croix, U.S.V.I.
Pro se.

Royette V. Russell, Esq.
Assistant Attorney General
St. Croix, U.S.V.I.
Attorney for Appellee.

OPINION OF THE COURT

CABRET, Associate Justice.

Chris George, proceeding *pro se*, appeals from an April 6, 2017 memorandum opinion and order of the Appellate Division of the Superior Court affirming his two convictions before the Magistrate Division for operating an unregistered motor vehicle on a public highway in violation

of title 20, § 331 of the Virgin Islands Code, and for operating a motor vehicle on public roads without insurance, in violation of § 712 of that same title. He argues that the Magistrate Court lacks jurisdiction over his traffic offenses and that the sections of the Virgin Islands Code prohibiting the operation of unregistered or uninsured vehicles on public highways violate his constitutional right to travel. Because 4 V.I.C. § 124 expressly grants the Magistrate Division of the Superior Court “exclusive jurisdiction over all traffic offenses, except felony traffic offenses,” and because it is well established that burdens placed upon a single mode of transport, such as automobiles, do not implicate the constitutional right to travel, we affirm the opinion of the Appellate Division.

I. FACTUAL AND PROCEDURAL BACKGROUND

On October 7, 2015, George was driving his truck in Christiansted when he was stopped by Officer Keisha Benjamin of the Virgin Islands Police Department for failing to display a current registration sticker on the windshield of his vehicle. Upon approaching the vehicle, Officer Benjamin asked George to produce his registration and insurance documents. After discovering that both his registration and insurance had expired, Officer Benjamin issued George two citations: one for operating an unregistered vehicle on a public highway in violation of 20 V.I.C. § 331 and the other for operating a motor vehicle on public roads without insurance in violation of 20 V.I.C. § 712.

Prior to trial, George filed a motion to dismiss the charges against him, challenging the Magistrate Division’s jurisdiction over traffic offenses and the constitutionality of the motor vehicle registration and insurance requirements set forth in title 20 of the Virgin Islands Code. Throughout the course of this litigation, George has not contested the facts alleged by the

prosecution, but has instead consistently maintained his challenge to the jurisdiction of the court and the validity of the laws under which he was charged.

Before beginning the trial on May 5, 2016, the Magistrate Division heard extensive argument from George on his pending motion to dismiss. The court denied George's motion from the bench, and immediately proceeded to trial. After calling Officer Benjamin to testify and moving both citations into evidence, the prosecution rested. George neither cross-examined Officer Benjamin nor testified in his own defense. The Magistrate Division found George guilty on both counts, sentenced him to pay fines of \$100 for operating an unregistered vehicle and \$250 for operating an uninsured vehicle, and assessed combined court costs of \$150 for both cases.

George timely filed a petition for review before the Appellate Division of the Superior Court on May 9, 2016,¹ asserting that the Magistrate Division erred in denying his motion for dismissal on the following grounds: "(1) [the People had] no case or cause of action, (2) [the People] failed to prove commerce was being conducted, [and] (3) [the Magistrate] erroneously substituted [his] right to travel for [the] privilege to drive." On review, the Appellate Division, noting that George "admitted that he did not comply with the requirement to insure his vehicle or to register his vehicle," rejected George's jurisdictional and constitutional arguments and affirmed the Magistrate Division's denial of his motion to dismiss the citations by memorandum opinion entered April 6, 2017. George filed a timely notice of appeal on April 18, 2017. V.I. R. APP. P. 5(a)(1).

¹ Because the decision of the Magistrate Division was not reduced to writing until November 15, 2016, George's petition for review was deemed filed that same date pursuant to Superior Court Rule 322.1(b)(2)(C).

II. JURISDICTION

We have jurisdiction over this criminal appeal pursuant to title 4, section 32(a) of the Virgin Islands Code, which provides that “[t]he Supreme Court shall have jurisdiction over all appeals arising from final judgments, final decrees or final orders of the Superior Court, or as otherwise provided by law.” An opinion of the Appellate Division affirming a final judgment, order, or decree entered by the Magistrate Division is a final order under section 32(a). *In re Estate of George*, 59 V.I. 913, 918 (V.I. 2013).

III. DISCUSSION²

George argues that the Magistrate Division of the Superior Court lacks jurisdiction over his traffic offenses because the People of the Virgin Islands could not produce any victim injured by his failure to register and insure his vehicle, and therefore the People failed to establish standing to prosecute this matter. Additionally, he contends that the Magistrate Division’s exclusive jurisdiction over misdemeanor traffic offenses is limited to offenses perpetrated in the course of conducting commerce because, as defined in various federal statutes and regulations, “the word ‘traffic’ means trade and commerce.” Finally, George argues that the compulsory vehicle registration and insurance provisions of Title 20 of the Virgin Islands Code violate his constitutional right to travel. Because George does not contest the factual findings of the

² George represents himself on appeal, as he did before both the Magistrate and Appellate Divisions of the Superior Court. And while the arguments presented in his Appellant’s Brief are, at times, difficult to decipher or even incomprehensible, it is our policy to grant greater leniency in reviewing the pleadings of *pro se* litigants, and we therefore look beyond the often confusing form of his brief and address all legal issues that may reasonably be inferred from the substantive arguments presented. See, e.g., *Marsh-Monsanto v. Clarenbach*, 66 V.I. 366, 376 (V.I. 2017). Compare, e.g., *Burgos v. Hopkins*, 14 F.3d 787, 790 (2d Cir. 1994) (where appellant proceeds *pro se*, an appellate court “read[s] his supporting papers liberally, and will interpret them to raise the strongest arguments that they suggest”) (citing *Mikinberg v. Baltic S.S. Co.*, 988 F.2d 327, 330 (2d Cir. 1993)).

Magistrate Division, this appeal concerns only pure questions of law and we therefore exercise plenary review. *See In re Estate of George*, 59 V.I. at 919.³

A. Standing

Whereas the case-and-controversy provision of Article III of the United States Constitution requires that a plaintiff demonstrate standing in order to establish a federal court's subject-matter jurisdiction over any cause of action, neither the Revised Organic Act of 1954 ("ROA") — the *de facto* constitution for the Virgin Islands — nor 4 V.I.C. § 124 — granting the Magistrate Division exclusive jurisdiction over "traffic offenses" — contains any such requirement. *See Benjamin v. AIG Ins. Co. of Puerto Rico*, 56 V.I. 558, 564-65 (V.I. 2012). Thus, in the Virgin Islands, the doctrine of standing imposes no limitation on the jurisdiction of the territorial courts, but rather functions only as a claims-processing rule, grounded in principles of judicial restraint. *Id.*; *see also Virgin Islands Taxi Ass'n v. W. Indian Co., Ltd.*, S. Ct. Civ. No. 2016-0062, 2017 WL 1080090, at *3 (V.I. Mar. 22, 2017) (citing *Tip Top Constr. Corp. v. Gov't of the V.I.*, 60 V.I. 724, 730 n.2 (V.I. 2014)). Viewed in this light, George's argument that the People's failure to demonstrate standing deprives the Magistrate Division of jurisdiction over his traffic offenses must fail.

Furthermore, to the extent that George suggests the Magistrate Division should have nevertheless dismissed the charges against him for lack of standing as a matter of judicial restraint,

³ George presented two additional assertions of error in his notice of appeal. First, George contends that the Magistrate Division erred in "fail[ing] to prove that the government has the authority to arbitrarily deprive an individual of their private property (automobile) without 'Due Process' of law." Second, George accuses the Magistrate Division of "[f]alsification of the written transcript for it to appear that I chose not to cross-examine the Police Officer." However, these issues were neither raised before the Appellate Division, nor argued in Appellant's Brief on appeal, and are therefore deemed waived. V.I. R. APP. P. 22(m) ("Issues that were (1) not raised or objected to before the Superior Court, (2) raised or objected to but not briefed, or (3) are only adverted to in a perfunctory manner or unsupported by argument and citation to legal authority, are deemed waived for purposes of appeal[.]").

this argument must also fail. George contends that there is “no case, crime or cause of action” against him, because the People failed to present a victim injured by his failure to register and insure his vehicle. As noted in the opinions of both the Magistrate and Appellate Divisions of the Superior Court, the people of the Virgin Islands, as a whole, unquestionably suffer injury when the traffic laws enacted by their duly-elected representatives are violated. *See People v. Melendez*, No. SX-16-RV-003, 2017 V.I. LEXIS 49, at *10 (V.I. Super. Ct. App. Div. Mar. 22, 2017) (explaining that the “victim” of defendant’s failure to display his driver’s license on request is “the community as a whole”) (collecting cases); *see also Morissette v. United States*, 342 U.S. 246, 254-56 (1952).⁴ One primary purpose of the traffic law, and indeed organized government itself, is to promote and protect the health, safety, and general well-being of the public. *See, e.g., People v. Duell*, 134 N.E.2d 106, 108 (N.Y. 1956) (“The underlying purpose of all legislation relating to motor vehicle traffic is the regulation of such traffic for the protection and safety of people at

⁴ In *Morissette*, the Supreme Court undertook an extensive historical analysis detailing the paradigm shift in the criminal law which took place in the aftermath of the industrial revolution:

Traffic of velocities, volumes and varieties unheard of came to subject the wayfarer to intolerable casualty risks if owners and drivers were not to observe new cares and uniformities of conduct. Congestion of cities and crowding of quarters called for health and welfare regulations undreamed of in simpler times... Such dangers have engendered increasingly numerous and detailed regulations which heighten the duties of those in control of particular industries, trades, properties or activities that affect public health, safety or welfare. While many of these duties are sanctioned by a more strict civil liability, lawmakers, whether wisely or not, have sought to make such regulations more effective by invoking criminal sanctions to be applied by the familiar technique of criminal prosecutions and convictions. This has confronted the courts with a multitude of prosecutions, based on statutes or administrative regulations, for what have been aptly called ‘public welfare offenses.’ These cases do not fit neatly into any of such accepted classifications of common-law offenses, such as those against the state, the person, property, or public morals. Many of these offenses are not in the nature of positive aggressions or invasions, with which the common law so often dealt, but are in the nature of neglect where the law requires care, or inaction where it imposes a duty. Many violations of such regulations result in no direct or immediate injury to person or property but merely create the danger or probability of it which the law seeks to minimize. While such offenses do not threaten the security of the state in the manner of treason, *they may be regarded as offenses against its authority, for their occurrence impairs the efficiency of controls deemed essential to the social order as presently constituted.* In this respect, whatever the intent of the violator, the injury is the same, and the consequences are injurious or not according to fortuity.

342 U.S. at 254-56 (emphasis added).

large.”). A violation of these laws constitutes an offense against the authority of the state and consequently damages the people’s confidence in the ability of their government to protect them from danger and to provide a safe, stable environment in which to conduct their lives. Criminal violations of traffic laws, in particular, undermine the public’s confidence that they will be able to safely traverse the roads and highways of the territory.

In addition to the abstract injury suffered by the general public, it is also worth noting the very concrete, individual injuries that the Legislature, by enacting the challenged statutes, has sought to prevent. In the modern world, it is undeniable that automobiles are, potentially, exceptionally dangerous instrumentalities. *See, e.g., Mequet v. Algiers Mfg. Co.*, 84 So. 904, 905 (La. 1920) (describing automobiles as “dangerous agencies carrying such great possibilities of harm”); *see also Pueblo v. Yip Berrios*, No. CE-93-735, 1997 WL 53457 (P.R. Jan. 30, 1997) (“It is a well-known fact that the automobile is a highly dangerous instrument that has the potential for causing serious injury or death when used incorrectly.”). Registration requirements such as those found in 20 V.I.C. § 331 help ensure that all vehicles are safe to operate on the roads and, in the event that use of an automobile does result in some injury, afford a means by which authorities may identify the vehicle and its owners. *See* 20 V.I.C. § 461 (“Before issuing a registration license to the owner of any motor vehicle, the Director of Motor Vehicles shall see that it is in satisfactory condition to insure safety on the public highways[.]”); *see also Bridges v. Hart*, 18 N.E.2d 1020, 1022 (Mass. 1939) (holding “the main purpose of registration is to afford identification of the owner and of the motor vehicle”). Similarly, the compulsory insurance provision contained in 20 V.I.C. § 712 safeguards the public against potential economic damages suffered at the hands of other motorists encountered on the road. *See* 20 V.I.C. § 703 (mandating that automobile insurance policies “insure . . . against loss from the liability imposed by law for damages arising out of the

ownership, maintenance, or use of such vehicle"). Requiring all drivers to obtain liability insurance policies serves to ensure that, in the event of an automobile accident, injured parties will have some viable means of seeking compensation for their injuries no matter the personal finances of the other driver or drivers involved. *See Gov't of the V.I. v. Cover*, 16 V.I. 321, 326 (V.I. Super. Ct. 1979) ("The primary purpose of compulsory motor vehicle liability insurance is to compensate innocent victims who have been injured by the negligence of financially irresponsible motorists."). In this sense, while there may not yet be any actual victims of George's failure to register or insure his vehicle, the number of potential victims is vast, and the consequences of such failure are potentially dire.

With these considerations in mind, the Legislature enacted sections 331 and 712 of title 20, requiring that any vehicle operated on the roadways of the territory be registered and insured. Additionally, through title 3, section 114(a)(3) of the Virgin Islands Code, the Legislature vested in the Attorney General the power and duty "to prosecute in the name of the People of the Virgin Islands, offenses against the laws of the Virgin Islands." As it well established that standing is not a jurisdictional issue in the Virgin Islands, George's argument only remains feasible insofar as we are willing to conclude that principles of judicial restraint suggest that the authority of the People to prosecute violations of the law should be conditioned upon the presentation of a victim. However, even cursory examination of these principles compels the opposite conclusion.

Though susceptible to various definitions depending on the context in which the term is used, perhaps the most commonly used definition of judicial restraint is "the principle that, when a court can resolve a case based on a particular issue, it should do so, without reaching unnecessary issues." BLACK'S LAW DICTIONARY 924 (9th ed. 2009). As applied to the doctrine of standing, principles of judicial restraint generally counsel that courts should refrain from adjudicating

disputes where no party has yet suffered any injury as such adjudication is, in a sense, unnecessary.

On this theory, the resolution of such disputes is more prudently deferred until all relevant issues, including the injuries or damages actually suffered by the parties, may be presented together for resolution by the court.

However, the definition of judicial restraint perhaps most relevant to the consideration of George's argument is a "philosophy of judicial decision-making whereby judges avoid indulging their personal beliefs about the public good and instead *try merely to interpret the law as legislated* and according to precedent." *Id.* (emphasis added). To accept George's contention that the People must demonstrate concrete injury and produce a victim in order to prosecute violations of the traffic code would be tantamount to judicial invalidation of 3 V.I.C. § 114(a)(3), as well as significant portions of titles 20, and 23, and thus would be antithetical to the very principles of judicial restraint in which the doctrine of standing is rooted.⁵ Therefore, George's argument, whether construed as a challenge to the jurisdiction of the court or as an appeal to principles of judicial restraint, must be rejected.⁶

⁵ Following George's argument to its logical conclusion would also necessitate the invalidation of those provisions of the criminal code pertaining to inchoate offenses such as attempted murder, which are so firmly grounded in the history of the common law that none could seriously contest their validity.

⁶ The authority of the Attorney General to prosecute offenses against the laws of the Virgin Islands cannot be seriously questioned. *See United States v. Ellis*, No. 2:06CR390, 2007 WL 2028908, at *2 (W.D. Pa. July 12, 2007) (dismissing challenge to the standing of the U.S. Attorney to prosecute offenses against the laws of the United States). In recent decades, legal scholars have noted the apparent difficulties in accounting for federal criminal prosecution within the framework of the Supreme Court's standing jurisprudence. *See, e.g.*, Edward A. Hartnett, *The Standing of the United States: How Criminal Prosecutions Show That Standing Doctrine Is Looking for Answers in All the Wrong Places*, 97 MICH. L. REV. 2239, 2256 (1999). However, there seems to be general agreement that this dissonance does not reflect a problem with traditional mechanisms of criminal prosecution, but instead illustrates the overbreadth of the Court's recent opinions regarding the doctrine of standing. *Id.*; *see also* Richard H. Fallon, Jr., *The Fragmentation of Standing*, 93 TEX. L. REV. 1061, 1080 (2015) ("The Supreme Court apparently never intended that the injury in fact, causation, and redressability requirements would apply to the federal and state governments in the same way as to private litigants. In perhaps the most obvious illustration, the government need not make a showing of personal injury to itself or anyone else in order to initiate a criminal prosecution.").

B. 4 V.I.C. § 124

Title 4, section 124(b) of the Virgin Islands Code grants the Magistrate Division of the Superior Court “exclusive jurisdiction over all traffic offenses, except felony traffic offenses.” In turn, the phrase “traffic offenses” is expressly defined to include “any conduct or violation of the provisions of titles 20 and 23 of the Virgin Islands Code and related regulations, relating to motor vehicles or pedestrians, or a moving or non-moving violation, which is punishable by a fine or a period of imprisonment of not more than six months.” 4 V.I.C. § 124(a). Viewed in this light, George’s argument that the jurisdiction of the Magistrate Division cannot be established without first defining the term “traffic” is misplaced. No matter how the word “traffic” may be defined in isolation, the Legislature has granted the Magistrate Division jurisdiction over “traffic offenses” and has provided an unambiguous definition of that term which explicitly includes the violations of the provisions of title 20 with which George was charged.

George also argues that traffic offenses properly fall under the jurisdiction of “maritime admiralty law” because “traffic” must be defined in terms of trade and commerce, and because Black’s Law Dictionary defines maritime law as “that system of law which particularly relates to commerce.” BLACK’S LAW DICTIONARY 1055 (9th ed. 2009). However, this argument is also misplaced. Despite George’s emphasis on the presence of the word “commerce” in the definition of maritime, the distinguishing feature of maritime or admiralty law is that it concerns the regulation of commerce and navigation *at sea*. *See id.* Indeed, the word maritime itself is defined as “of or relating to navigation or commerce on the sea.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1382 (1993) (emphasis added). Because maritime admiralty law is wholly concerned

with activity *at sea* and has no bearing on the regulation of automobile traffic on the roads of the territory, George's argument is rejected.

Additionally, George asserts, without citation to supporting authority, that 4 U.S.C. § 112 — granting congressional consent “to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime” — requires that Virgin Islands traffic laws “use the same words and definitions as the other states.” George failed to raise this argument before either the Magistrate Division or the Appellate Division of the Superior Court, and it is deemed waived on appeal. V.I. R. APP. P. 22(m). And, on its merits, this argument is baseless: the unambiguous language of this federal statute merely authorizes state governments to enter into agreements for cooperative law enforcement, and otherwise imposes no obligations or restrictions on state, or in this instance, territorial traffic regulation. *See Cuyler v. Adams*, 449 U.S. 433, 442 (1981) (describing effect of 4 U.S.C. § 112 as a “grant of consent under the Compact Clause”).⁷

We note that George's arguments concerning the definitions of terms such as “traffic” and the discrepancies in how these terms are defined under federal and territorial law appear to be based on a fundamental misunderstanding of the nature of the authority and role of federal, as opposed to state or territorial government. Whereas the federal government is, under the Constitution of the United States, a government of limited, enumerated powers, state governments

⁷ George also contends that the Magistrate Division erred in failing to define the terms “driver, motor vehicle, motor carrier, and other related terms.” “Motor vehicle” is expressly defined by 20 V.I.C. § 101 to include “all vehicles propelled by power other than muscular, except those running upon rails or tracks, road rollers, tractors, and self-propelled plows and golf carts used solely for recreational purposes on golf courses and not on public roads or highways.” The terms “driver” and “motor carrier” do not appear in either of the statutes George is charged with violating, and are therefore irrelevant to the resolution of this appeal. Curiously, George does not request a definition of the term “operate” — the relevant term used to define the conduct proscribed under 20 V.I.C. §§ 331 and 712. However, we recently clarified that within the meaning of title 20, the term “operate” carries its commonly understood meaning: to control the functioning of a vehicle. *Ubiles v. People*, 66 V.I. 572, 595 (V.I. 2017).

are vested with plenary police power, including the power to enact regulations providing for the safety of their citizens. *See, e.g., Panhandle E. Pipe Line Co. v. State Highway Comm'n of Kansas*, 294 U.S. 613, 622 (1935) (“The police power of a state . . . springs from the obligation of the state to protect its citizens and provide for the safety and good order of society . . . and *permits reasonable regulation of rights and property* in particulars essential to the preservation of the community from injury.”) (emphasis added). As the Virgin Islands is an unincorporated territory of the United States of America, and not a state, we have previously observed that “Congress does possess such plenary police power with regard to the Virgin Islands under Article IV of the United States Constitution,” but “instead of exercising that authority, Congress has chosen to vest it in the Virgin Islands Legislature.” *Rennie v. Hess Oil V.I. Corp.*, 62 V.I. 529, 549 (V.I. 2015) (citations omitted). Thus, while the territorial Legislature has “wide discretion to classify offenses and prescribe penalties for those offenses,” see *Murrell v. People*, 54 V.I. 338, 359 (V.I. 2010), “Congress lacks a ‘plenary police power that would authorize enactment of every type of legislation.’” *Rennie*, 62 V.I. at 549 (citing *United States v. Lopez*, 514 U.S. 549, 566 (1995)).

Here, George argues that traffic “means trade and commerce,” citing various federal statutes and regulations concerning interstate commercial traffic. According to George, because he was not engaged in trade or commerce when he was stopped, he cannot be charged with traffic offenses. What George fails to appreciate is that the federal statutory provisions he cites must necessarily be limited in scope to regulate only traffic involving interstate commerce and trade because Congressional authority to enact such laws is derived from the commerce clause of Article I of the U.S. Constitution, which provides: “The Congress shall have the power . . . to regulate commerce with foreign nations, and among the several states.” U.S. CONST. art. I, § 8. By contrast, the Legislature of the Virgin Islands is subject to no such limitation and may therefore enact laws

regulating traffic on the highways and public roads of the territory in any manner consistent “with [the ROA] or the laws of the United States made applicable to the Virgin Islands.” *Murrell*, 54 V.I. at 359.

C. Right to Travel

The Supreme Court of the United States has established that the Constitution protects at least three distinct aspects of a “right to travel”: (1) “the right of a citizen of one State to enter and to leave another State,” (2) “the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State,” and (3) “for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State.” *Saenz v. Roe*, 526 U.S. 489, 500 (1999). And while the Supreme Court has not directly addressed the issue presented here, there is general agreement among the Circuit Courts that burdens imposed upon a single mode of transportation do not implicate the constitutional right to travel. *See, e.g., Miller v. Reed*, 176 F.3d 1202, 1205 (9th Cir. 1999) (holding that there is no fundamental right to drive an automobile); *see also Matthew v. Honish*, 233 Fed. Appx. 563, 564 (7th Cir. 2007) (rejecting as meritless appellant’s argument that state laws requiring licensing and registration of automobiles violate the right to travel); *City of Houston v. F. A. A.*, 679 F.2d 1184, 1198 (5th Cir. 1982) (rejecting “feeble claim that passengers have a constitutional right to the most convenient form of travel”); *Town of Southold v. Town of E. Hampton*, 477 F.3d 38, 54 (2d Cir. 2007) (affirming trial court’s holding that “travelers do not have a constitutional right to the most convenient form of travel[, and] minor restrictions on travel simply do not amount to the denial of a fundamental right”).

George's contention that the compulsory motor vehicle registration and insurance provisions of the Virgin Islands Code violate his constitutional right to travel lacks merit. The challenged laws do not prevent George from traveling by public transportation, by common carrier, or even by motor vehicle so long as that vehicle is registered, insured, and operated by someone licensed to drive. In essence, George urges us to break with well-established federal jurisprudence and recognize, for the first time, that the constitutional right to interstate travel also encompasses an individual right to operate an automobile. We see no reason to depart from the general consensus among the Circuit Courts of Appeal holding that this is not a fundamental right.

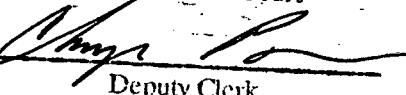
IV. CONCLUSION

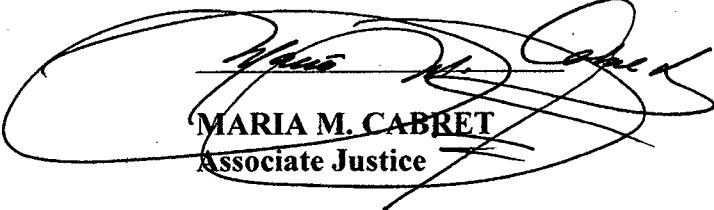
Section 124 of title 4 of the Virgin Islands Code expressly confers upon the Magistrate Division exclusive jurisdiction over all traffic offenses including violations of title 20, and therefore George's jurisdictional challenge must be rejected. Additionally, because we find no basis in law for concluding that the constitutionally protected right to travel incorporates a fundamental right to operate a motor vehicle, George's constitutional challenge to the validity of 20 V.I.C. § 331 and 20 V.I.C. § 712 must also be rejected. Accordingly, we affirm the decision of the Appellate Division of the Superior Court.

Dated this 5 day of July, 2018.

BY THE COURT:

CERTIFIED A TRUE COPY

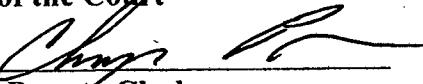
Date: 7/5/2018
VERONICA J. HANDY, ESQ.
Clerk of the Court
By: 
Deputy Clerk


MARIA M. CABRET
Associate Justice

ATTEST:

VERONICA J. HANDY, ESQ.

Clerk of the Court

By: 
Deputy Clerk

Dated: 7/5/2018