DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

UNITED STATES OF AMERICA, **v.** **ROSNIEL DIAZ-BAUTISTA,** **Defendant.**	**1:24-cr-00020-WAL-EAH**

TO: Denise George, Esq., AUSA
Matthew A. Campbell, Esq., FPD
Gabriel J. Villegas, Esq., AFPD
John A. Diaz, Esq.

ORDER

THIS MATTER comes before the Court on the Motion to Compel Local Detention, filed on August 7, 2025 by Matthew Campbell, Esq., FPD, counsel for Defendant Rosniel Diaz-Bautista. Dkt. No. 55. In the Motion, Attorney Campbell sets forth numerous reasons why Mr. Diaz-Bautista, who is facing capital charges, should be incarcerated on St. Croix rather than the Metropolitan Detention Center ("MDC") in Guaynabo, Puerto Rico, in preparation for his trial in the St. Croix Division of the District of the Virgin Islands.[1]. The Court held a hearing on the motion for August 15, 2025. Prior to the hearing, the Government filed a Notice in response. Dkt. No. 61. For the reasons set forth below, the Court will deny the motion.

BACKGROUND

In November 2024, the Government filed an Information charging Mr. Diaz-Bautista with: (1) use of a firearm during a crime of violence resulting in death, in violation of 18 U.S.C. § 934(j)(1); (2) discharge of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 934(c)(1)(A); and (3) first degree murder, in violation

[1] Because the Virgin Islands does not have a federal detention center, Virgin Islands federal detainees are usually held at MDC Guaynabo, Puerto Rico—the closest federal detention center available—and are flown to St. Croix and St. Thomas by the U.S. Marshals Service for hearings and other court proceedings.

of 14 V.I.C. §§ 921, 922(a)(1), and 923. Dkt. No. 1. The charges stemmed from a September 8, 2024 incident where Mr. Diaz-Bautista allegedly shot and killed Indierra Morales while she was sitting in a car in Frederiksted, St. Croix. Dkt. No. 1-1. In December 2024, Mr. Diaz-Bautista was indicted on the same charges. Dkt. No. 24. A Superseding Indictment issued on August 19, 2025, containing the same charges and adding a Notice of Special Findings pursuant to 18 U.S.C. §§ 3591, 3592. Dkt. No. 64.

In January 2025, the Court issued an Order directing the Government to file a notice within thirty days as to whether it intended to seek the death penalty against Mr. Diaz-Bautista. Dkt. No. 33. The Government moved for extensions of that deadline, Dkt. No. 36, 43, 47, 50, before filing a notice on July 31, 2025 of its intent to seek the death penalty. Dkt. No. 54.

A week later, the Defendant filed the instant Motion to Compel Local Detention in which he set forth seven reasons for the Court to order Mr. Diaz-Bautista to be detained on St. Croix pending trial (a trial date has not yet been set). Dkt. No. 55. First, although local counsel Matthew Campbell, Esq.—the Federal Public Defender—has his primary office on St. Thomas, other members of the defense team from the Federal Defenders Office reside on St. Croix. When Attorney Campbell travels to St. Croix, he has a dedicated office for his use and resources available from that office. Having Mr. Diaz-Bautista housed on St. Croix will be advantageous given the proximity of the FPD Office on St. Croix. In contrast, counsel has no office in Puerto Rico, and visits there involve plane flights from St. Thomas and use of a rental vehicle, and even short visits consume an entire workday. *Id.* at 2. Similarly, Learned Counsel's offices are in New York; while travel to either Puerto Rico or St. Croix would take the better part of a day, Learned Counsel would have access to the resources in the FPD Office on St. Croix. *Id*. at 2-3.

Second, criminal defendants are guaranteed a right to the effective assistance of counsel that attaches pretrial. *Id*. at 3-4. In *Cobb v. Aytch*, 643 F.2d 946 (3d Cir. 1981), the Third Circuit enjoined transfers to remote prisons as significantly interfering with pretrial detainees' access to counsel. *Id*. at 4. Third, defendants facing capital charges are guaranteed enhanced rights. *Id*. at 6. Under 18 U.S.C. § 3005, their attorneys "shall have free access to the accused at all reasonable hours," and Mr. Diaz-Bautista's detention order required that he "be afforded a reasonable opportunity for private consultation with counsel." Dkt. No. 13 (citing 18 U.S.C. § 3142(i)(3)). The Constitution and statutes support the point that pretrial detainees, particularly in death penalty cases, are entitled to frequent visits from attorneys, investigators, and mitigation specialists. *Id*. at 6.

Fourth, the Constitution and statutes recognize the critical need for developing a mitigation case. *Id.* at 6-9. Mr. Diaz-Bautista would be a source of much of the mitigation information that counsel must exhaustively investigate. Therefore, counsel must spend inordinate amounts of time with him to develop mitigation evidence if he is to be afforded his constitutional guarantees. *Id.* at 9. Fifth, counsel's obligations and duties in a capital case far exceed those in non-capital cases, as set out in the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty cases. *Id.* at 9-10. The Guidelines provide that counsel must make extraordinary efforts on behalf of the accused at every stage of the proceedings, which specifically include heightened client contact. *Id*. at 10. Thus, establishing a relationship of trust with the client and overcoming barriers to communication is essential. *Id.* at 10-11. In order to establish a relationship of trust, frequent visits to keep the client updated is critical. *Id*. at 11.

Sixth, Mr. Diaz-Bautista's detention at MDC Guaynabo interferes with his constitutional and statutory rights as a capitally-charged defendant, given the herculean task of developing a mitigation case. *Id.* Local counsel having to purchase plane tickets

and a rental car cannot be considered local; if the Defendant were housed on St. Croix, the defense team could visit him weekly. *Id.* at 12. The same reasoning generally applies to Learned Counsel's ability to visit. Housing the Defendant on St. Croix would save substantial time and expense. *Id*. at 12. If Learned Counsel could visit Mr. Diaz-Bautista on St. Croix during the mitigation investigation, travel expenses would be lessened, permitting a greater number of trips by Learned Counsel during the case. *Id.* at 13. Local counsel's and Learned Counsel's abilities to represent the Defendant are diminished by his remote detention at MDC Guaynabo. *Id.* Finally, in *United States v. Dangleben*, 3:23-cr-0072 (D.V.I. June 11, 2025), Chief Judge Robert Molloy granted a similar request (in part) in the St. Thomas Division when counsel asked that a defendant, facing capital charges, be housed on St. Thomas through a July 23-25, 2025 omnibus hearing, subject to renewal of that motion. *Id*. at 14; *see also* Dkt. No. 55-2.

Attorney Campbell concluded that he does not have "free access to the accused at all reasonable hours," 18 U.S.C. § 3005, when Mr. Diaz-Bautista is detained at MDC Guaynabo. He therefore seeks an Order directing the U.S. Marshals Service to detain Mr. Diaz-Bautista on St. Croix in preparation for his trial. *Id.* at 14-15.

In its one-page "Notice of Response to Defendant's Motion to Compel Location [sic] Detention," the Government listed various considerations the Court must assess when evaluating the motion. Dkt. No. 61. It must consider: (1) what will protect the Defendant's right to effective assistance of counsel without unduly interfering with the U.S. Marshals Service's duties and responsibilities to manage the transport of persons in custody to and from the Virgin Islands; (2) the fact that the Virgin Islands does not have a federal detention center and that Guaynabo is the closest one available—a half-hour airplane ride away; (3) MDC Guaynabo is completely accessible to counsel; and (4) the V.I. Bureau of Corrections ("VIBOC") is a local government facility, and the U.S. Marshals Service must

make arrangements with the VIBOC for short-terms detention of federal prisoners for definite periods of time, as needs arise. *Id.*

At the August 15, 2025 motion hearing, the Government was represented by Denise George, Esq., AUSA. The Defendant was represented by Matthew Campbell, Esq., FPD, and John Diaz, Esq., Learned Counsel; the Defendant was also present.

Upon questioning by the Court, the Government clarified that it opposed a blanket, indefinite stay on St. Croix for Mr. Diaz-Bautista.

Attorney Campbell reiterated the points made in the motion. He focused on § 3005's provision that counsel should have "free access to the accused at all reasonable hours," which meant that the Defendant should have greater access to counsel in a death penalty case. That would happen if Mr. Diaz-Bautista were housed on St. Croix, which would permit his defense team to have free access to him. For example, Attorney Campbell could come over to St. Croix for days at a time and, with office space, prepare the case more efficiently.

The Court asked if MDC Guaynabo had placed any impediment to Mr. Diaz-Bautista's access to his attorneys. For example, if counsel needed to see the Defendant for six hours, did anyone at MDC Guaynabo tell counsel he could see him only for one hour? Attorney Campbell answered in the negative, but emphasized the distance to Guaynabo and how the defense team could have more meetings with the Defendant on St. Croix than in Puerto Rico. The Court pressed, asking—other than travel—what else created an inability to adequately represent the Defendant. Attorney Campbell referred to preparing the mitigation case, where the details of the Defendant's entire life had to be explored. The Court inquired whether Mr. Diaz-Bautista had to be on St. Croix for the mitigation investigation. Attorney Campell responded in the negative but highlighted the need for counsel's active relationship with the Defendant, a dynamic process that depended on

free access. Attorney Campbell stated that building a relationship with the Defendant required hours and hours of meetings: if he did not see the Defendant as much, that would hinder the Defendant's ability to trust his counsel and participate in his capital defense.

DISCUSSION

I. Preliminary Matters

The memorandum in support of Mr. Diaz-Bautista being housed on St. Croix rather than MDC Guaynabo commingles constitutional and statutory arguments. *See* Dkt. No. 55. The motion raises Sixth Amendment right to counsel arguments and cites case law discussing a capital defendant's rights to develop mitigation evidence under the Eighth Amendment. It also cites the statute providing enhanced rights for defendants facing capital crimes, 18 U.S.C. § 3005, and the pretrial detention statute, 18 U.S.C. § 3142(i)(3), designed to protect a defendant's Sixth Amendment right to counsel. *Id*. at 5.

Given this constitutional and statutory admixture, the Court must first address the principle of judicial restraint.

> The Court will not [decide] a constitutional question although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter.

Ashwander v. Tenn. Valley Auth., 297 U.S. 288, 347 (1936) (Brandeis, J., concurring) (citation modified); *see Lyng v. Nw. Indian Cemetery Protective Ass'n,* 485 U.S. 439, 445 (1988) ("A fundamental and longstanding principle of judicial restraint requires that courts avoid reaching constitutional questions in advance of the necessity of deciding them."). The Court will therefore refrain from analyzing the motion under the Sixth (and Eighth) Amendment because a statute authorizes this Court to oversee matters that directly affect a capital defendant's "free access to counsel." 18 U.S.C. § 3005.

As a second point, the Court is aware of its limited authority to direct the daily management of detention facilities. *Cf*. *Bell v. Wolfish*, 441 U.S. 520, 547–48 (1979) (in day-to-day operations, "[p]rison administrators . . . should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security."). In the same vein, the Court is mindful that, because the Virgin Islands lacks a federal detention center, the U.S. Marshals Service is tasked with arranging transportation from MDC Guaynabo to St. Croix, and with arranging the short-term detention of detainees and prisoners at the Virgin Islands Bureau of Corrections facility located on St. Croix. Thus, these factors must be considered when assessing whether to permit the Defendant to be detained on St. Croix indefinitely (until trial), just as Chief Judge Molloy did when considering the Motion to Compel Local Detention in *United States v. Dengleben*, 3:25-cr-0072 (D.V.I. June 11, 2025). Dkt. No. 55-2.

II. Application

The statute primarily at issue here, entitled "Counsel and witnesses in capital cases," provides, in pertinent part:

> Whoever is indicted for treason or other capital crime shall be allowed to make his full defense by counsel; and the court before which the defendant is to be tried, or a judge thereof, shall promptly, upon the defendant's request, assign 2 such counsel, of whom at least 1 shall be learned in the law applicable to capital cases, and *who shall have free access to the accused at all reasonable hours*.

18 U.S.C. § 3005 (emphasis added). The issue is: what does "free access to the accused" mean? There is a dearth of case law on the topic.

The Court's analysis "begins and ends with the text[.]" *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 553 (2014) "In determining whether the meaning of a statutory term is plain, the language itself, the specific context in which that language is

used, and the broader context of the statute as a whole" should be considered. *N.J. Bankers Ass'n v. Att'y Gen. N.J.*, 49 F.4th 849, 857 (3d Cir. 2022) (citation modified).

Here, "free access to the accused" is somewhat ambiguous, because "free" has a wide range of meanings. According to Black's Law Dictionary, it can mean, on the one hand, "unburdened" or "to make available," and, on the other hand, "unrestricted and unregulated" or "not subject to the constraint or domination by another." *Free*, Black's Law Dictionary (12th ed. 2024). The phrase "free access to the accused" is modified by the phrase "at all reasonable hours." Thus, counsel's free access is necessarily limited by the demands of the detention facility where the client is housed; access may be "free" only during "reasonable hours." The word "free" here, read in context, means that a facility housing a capital defendant may not burden counsel's access to the defendant (during reasonable hours) by imposing any other roadblocks to that access (by, for example, arbitrarily limiting the number of hours per day of access).

This case became a capital case on July 31, 2025. Dkt. No. 54. A week later, on August 7, 2025, Attorney Campbell filed the instant motion. Dkt. No. 55. The motion did not mention that counsel had actually experienced any problems accessing the Defendant at MDC Guaynabo, and Attorney Campbell did not mention at the hearing any impediments to visiting Mr. Diaz-Bautista during the months that the Defendant has been incarcerated there prior to this becoming a capital case. In other words, Attorneys Campbell and Diaz currently have "free access" to their client at MDC Guaynabo; nothing to date has limited their ability to freely access their client whenever they please. The issue they raise is, at best, hypothetical. The problem, as Attorney Campbell articulated it, appears to be the travel time and expense and the lack of an office in Puerto Rico for defense counsel to work from.

But, in this case, both local counsel and Learned Counsel are not located on St. Croix. Therefore, visiting the Defendant—whether housed in Puerto Rico or St. Croix—would require equivalent travel time, hotel accommodations, and car rentals. The only difference between the two locations would be the fact that the Federal Defender has an office on St. Croix where members of the defense team located on St. Croix could interact with the Defendant more regularly if he were housed there. In the Court's view, Defendant's counsel is not seeking "free access to the accused" but "optimal" access where the convenience of counsel is prioritized. This is not what is contemplated by § 3005. Travel—whether to MDC Guaynabo or St. Croix—is not an insurmountable problem, equivalent to denying "free access within reasonable hours" to the Defendant.

This reading is supported by the only cases the Court has found that discuss the "free access" provision of § 3005. In both cases, however, the prison either limited hours for attorney-client contact or put some other impediment to such meetings where the court had to step in to uphold the capital defendants' constitutional and statutory rights under § 3005. In *United States v. Martinez-Hernandez*, No. 3:15-cr-00075, 2015 WL 6133050 (D.P.R. Oct. 15, 2015), the district court addressed motions in a multi-defendant death-penalty-eligible case in Puerto Rico where the defendants—confined in special housing units ("SHU") in various Bureau of Prison facilities not located in Puerto Rico—filed motions concerning, inter alia, their pretrial rights of access to counsel who were located multiple hundreds of miles away. The court observed that the distance the attorneys had to travel "though unfortunate, [was] not an insurmountable obstacle."[2] *Id*.

[2] Attorney Campbell cited *Cobb v. Aytch*, 643 F.2d 946, 960 (3d Cir. 1981), a state prisoner class action lawsuit where the Third Circuit upheld a district court order that, inter alia, enjoined transfers of pretrial detainees to "remote prisons" (up to 300 miles away) that significantly interfered with those detainees' access to counsel, without the prisoners' consent (a state law requirement). Dkt. No. 173 at 4. The access to counsel issue in *Cobb*

at *10. It concluded that one defendant failed to "present any facts upon which this court can determine that his access to counsel is being impeded as a result of his confinement in SHU," and denied his motion. *Id.* at *9. The court granted the motions of the other defendants who requested that their prisons extend the schedule for in-person attorney-client consultations. It ordered twelve-hour periods for legal consultation (except during the "official count") or extended the time by six hours each visitation day to maximize the visiting time for attorneys who had traveled great distances. The court stated that the prisons' interference with those visits would not be allowed. *Id.* at *10-11. The court also required counsel to notify the facilities of their intended visits 48 hours in advance and emphasized that it had so ruled only because the defendants faced the death penalty. *Id.* at *11.

The second case, *United States v. Miske*, No. 19-cr-00099, 2021 WL 1084874 (D. Haw. Jan. 15, 2021), involved a capital defendant's motion seeking, inter alia, contact visits with the defendant's defense team at all reasonable hours. The court considered 18 U.S.C. § 3142(i)(3),[3] read in conjunction with 18 U.S.C. § 3005, and opined that the latter statute contained "no carveout that permits a detention center to deviate from providing the defendant and his counsel free access to each other at all reasonable hours. Logistical challenges . . . or disciplinary sanctions do not provide a basis to provide [defendant] anything less," given the statute's requirements for a detained defendant subject to

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focused on the distance between where the detainee was housed and the court, which prevented counsel in numerous instances from preparing an adequate defense by impeding them from conducting necessary pretrial interviews. That is not the case here, where local and learned counsel's distance to the Defendant in either St. Croix or Puerto Rico is equivalent, and they have not had any issue in accessing him.

[3] 18 U.S.C. § 3142(i)(3) requires that for any defendant detained pretrial, the judicial officer "shall . . . direct that the person be afforded reasonable opportunity for private consultation with counsel[.]"

capital punishment. *Id.* at *2. The court granted relief, finding that contact visits were "reasonable and necessary to ensure counsel's free and adequate access to Mr. Miske, even when Mr. Miske is housed in the Special Housing Unit." *Id.* at *3. It also ordered that prison officials were prohibited from taking actions that interfered with the defendant's right to effective assistance of counsel. *Id.* at *4.

The Court therefore rejects Attorney Campbell's view that "free access" to the Defendant requires that the Defendant be moved from the federal facility in Puerto Rico to the local facility on St. Croix and will deny the Defendant's Motion to Compel Local Detention. Dkt. No. 55.

However, the Court will add one important caveat. There may very well come a time that the attorneys for the Defendant believe that the Defendant's presence on St. Croix is necessary for a discrete amount of time to assist with a discrete pre-trial matter. If that situation comes to pass, Defendant's counsel should file such a motion with the Court, either on the docket or ex parte, in which they explain why the Defendant's presence on St. Croix would be helpful to the defense, and set out the specific length of time requested. The Court will consider such request(s) on a case-by-case basis.

CONCLUSION

Accordingly, based on the analysis set forth above, it is hereby **ORDERED** that Defendant's Motion to Compel Local Detention, Dkt. No. 55, is **DENIED**.

ENTER:

Dated: August 26, 2025

/s/ Emile A. Henderson III
EMILE A. HENDERSON III
U.S. MAGISTRATE JUDGE