

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **17-2609**

COMPANION ASSURANCE COMPANY; ET AL., Petitioners

v.

SHAWN SMITH; ET AL.

(V.I. S. Ct. Civ. No. 2016-0056)

Present: JORDAN, SHWARTZ and KRAUSE, Circuit Judges

Submitted are:

- (1) Petitioners' petition for a writ of certiorari;
- (2) Respondents' brief in opposition thereto; and
- (3) Petitioners' reply brief

in the above-captioned case.

Respectfully,

Clerk

MMW/EGL/nmr

ORDER

Petitioners' petition for a writ of certiorari is granted. See 3d Cir. L.A.R. 112.1(a) (2010). We note that petitioners sought to appeal to the Virgin Islands Supreme Court both (1) the Virgin Islands Superior Court's underlying judgment entered January 11, 2016, and (2) the Superior Court's order denying their post-trial motions entered September 1, 2016. Petitioners appear to assume that, if the Superior Court retained jurisdiction to rule on their post-trial motions, then their appeal from the denial of those motions also permitted review of the Superior Court's underlying judgment. We express no opinion on the merits of this issue for present purposes, but we note the possibility that

each aspect of petitioners' appeal to the Supreme Court might require a separate analysis. Thus, in addition to the question presented, the parties are directed to address (1) whether petitioners' appeal from the Superior Court's underlying judgment remained untimely by operation of V.I. R. App. P. 5(a)(4) regardless of whether the Superior Court retained jurisdiction to rule on their post-trial motions; (2) whether the Supreme Court should have exercised jurisdiction over petitioners' appeal from the denial of their post-trial motions (regardless of whether the Superior Court had jurisdiction over them) instead of dismissing that aspect of the appeal as untimely, *see* 4 V.I.C. § 32(a); V.I. R. App. P. 5(a); *cf.* Long v. Atl. City Police Dep't, 670 F.3d 436, 446-47 & n.19 (3d Cir. 2016); and (3) whether this Court has jurisdiction in light of 48 U.S.C. § 1613.

We further note respondents' argument that this Court lacks jurisdiction to review the Virgin Islands Supreme Court's decision. Our grant of certiorari does not represent a determination that this Court has such jurisdiction. That determination will be made by the Panel of the Court that considers this appeal on the merits.

By the Court,

s/ Kent A. Jordan

Circuit Judge

Dated: December 18, 2017

NMR/cc: Rhea R. Lawrence, Esq.
Andrew C. Simpson, Esq.