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Judge Delays Elections Supervisor's Suit Against Ida Smith Until Post-Election

V.I. DOJ backs Board of Elections in ballot dispute; hearing deferred to protect voter participation amid ongoing election process

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The V.I. Superior Court on St. Croix By. ERNICE GILBERT, V.I. CONSORTIUM

The V.I. Department of Justice, representing the V.I. Board of Elections in Superior Court on Monday, defended the board's decision to include Ida Smith on the ballot for Delegate to Congress following her disqualification by Elections Supervisor Carolyn F. Fawkes.

The case stems from a complaint Fawkes filed in mid-October, in which she argued that Ms. Smith's nomination petition was legally deficient and asked the court to uphold her decision to disqualify the candidate. Fawkes's initial decision was based on local election law criteria that she

said Smith's paperwork failed to meet. However, Smith contested the disqualification, appealing to the Board of Elections and claiming that Fawkes had applied local law inappropriately, arguing instead that her eligibility should be assessed based on the Constitution of the United States.

This disagreement delayed the Board's ballot approval process, prompting the members to seek guidance from Attorney General nominee Gordon Rhea. In response, Rhea sent a letter advising the Board to place Smith on the ballot, asserting that the eligibility criteria for the position of Delegate to Congress fall under federal jurisdiction rather than local law. Acting on Rhea's recommendation, the Board of Elections held a [contentious meeting](#) in early September and voted to reinstate Smith's candidacy. This decision set up a direct conflict with Fawkes, who vowed to challenge the board's authority, saying, "We'll go to court."

On October 17, [Fawkes followed through](#) on that vow by filing a lawsuit against the Board of Elections and its nine members who had voted to add Smith's name to the ballot. The lawsuit asserts that the Board's decision oversteps its authority, arguing that "the BOE has attempted to turn the straightforward and mandatory procedure for a candidate's qualification into a nullity." Attorneys for Fawkes cited Title 18, Section 411(b) of the Virgin Islands Code, which they claim grants the Elections Supervisor sole authority to determine candidate qualifications. According to this section, if the Supervisor finds that a candidate does not meet the statutory requirements for an office, they are mandated to disqualify the candidate and remove their name from the ballot.

Fawkes's lawsuit further emphasized that the Virgin Islands Code does not grant the Board of Elections any role in qualifying or disqualifying candidates or in placing them on the ballot. The complaint argued that the board's actions undermine the supervisor's statutory powers and calls for a court order affirming that the Supervisor of Elections alone holds the authority to determine candidate eligibility under Title 18, Section 411(b). Additionally, the suit seeks an injunction to prevent the board and its members from altering ballot content in the future.

As early voting had already begun by the time of the court hearing, with hundreds of Virgin Islanders casting ballots that included Smith's name, the timing of the lawsuit raised immediate concerns about the potential impact on the ongoing election process. DOJ attorneys on Monday argued that Fawkes lacked the statutory authority to file the lawsuit in her official capacity, contending that the Supervisor does not possess "sue and be sued" powers and operates under the Board's supervision.

The court acknowledged this argument but refrained from making a ruling on Fawkes's authority at that time, opting instead to continue deliberating on this issue. Additionally, the DOJ raised concerns about Smith's absence from the lawsuit, arguing that, as the candidate in question, she has a vested interest in its outcome. The Court agreed, ruling that Fawkes must add Smith as a defendant in the suit before any further proceedings could take place. Consequently, the hearing was removed from the immediate schedule, giving Fawkes a week to amend her complaint.

Attorney General nominee Gordon Rhea, who attended the hearing, supported the court's decisions, stressing the importance of ensuring that Election Day, less than 24 hours away, proceeds without interference. "It is important that the election takes place tomorrow without interruption," Rhea stated. He also praised Assistant Attorney General Christopher Timmons for his representation.