

The Virgin Islands Consortium

Breaking: Judge Lewis Orders Hansen Back On Ballot

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The Virgin Islands District Court Chief Justice Wilma A. Lewis has ordered the Board of Elections to place Sen. Alicia "Chucky" Hansen back on the November 4 ballot in a temporary injunction to last until Sept. 26. The Justice's decision came just in time for Hansen and her legal team to meet today's 2 p.m. deadline--the latest the ballots could be sent to the printer in order to be ready for the General Election in November.

Judge Lewis was not left with much choice as both parties, plaintiff (Hansen) and defendant (Caroline Fawkes, elections supervisor), held the same stance.

"While the substantive positions of the parties were identical in virtually all material respects, the live controversy arose herein from Defendants' refusal to place Senator

Hansen on the ballot without a Court Order granting such relief," Judge Lewis wrote in her opinion, obtained by *VI Consortium* at the Federal Building this morning.

Judge Lewis's opinion continued: "Plaintiffs also argued that the Governor's pardon removed the impediment to Senator Hansen's qualifications -- as a person having been convicted of a crime involving moral turpitude -- thus rendering her eligible to be a member of the Legislature and further rendering her September 4, 2014 nomination papers -- which were timely re-filed within the statutorily required three days -- unobjectionable. Based on the Court's reading of the relevant provisions of the Revised Organic Act and the Virgin Islands Code, the Court finds that Plaintiffs have demonstrated a likelihood of success on the merits based on this argument."

As it relates to the Supreme Court's ruling that Hansen be barred from the November 4 ballot because of crimes of moral turpitude, Lewis wrote that Governor de Jongh's pardon "explicitly restored Senator Hansen's civil rights in all respects," which removed the disqualifications "that would prevent her from running as a candidate in the November 4 elections."

When exercising jurisdiction over cases requiring the application of Virgin Islands Law, the Third Circuit Court of Appeals has instructed the Virgin Islands District Court to predict how the Supreme Court of the Virgin Islands would decide an issue of territorial law, and should seek guidance from the Superior Court decisions in undertaking this endeavor, Lewis' opinion made known. In essence, the Pennsylvania-based Third Circuit Court of Appeals gives the VI District Court the power to rule how it predicts the VI Supreme Court would rule in a given case. Thus, Justice Lewis predicted the VI Supreme Court would have ruled in Hansen's favor, based on the arguments presented in Hansen's appeal.

The District Court Ordered that:

- The Plaintiff's request for a Temporary Restraining Order is granted.
- The Defendants are directed to place Senator Alicia "Chucky" Hansen's name on the ballot for upcoming November 4, 2014 general election.
- The temporary restraining order shall remain in effect up to and including September 26, 2014.
- The parties shall advise the Court by written notice, filed no later than 5:00 p.m. on September 12, 2014, whether they request the opportunity for additional briefing and/or oral argument in this matter.
- In the absence of further written and/or oral submission from the parties, the Court will base its decision regarding Permanent Injunction and final declaratory relief on the filings currently before the Court and the arguments presented at the September 10, 2014 hearing.
- The Federal Rule of Civil Procedure 65 (c) security requirement is WAIVED.

On Sept. 3, Governor John P. de Jongh, Jr. pardoned Sen. Hansen, stating that he believes the senator's fate should be left in the hands of the voters of St. Croix.

"She has asked for that pardon. And I shall grant it because I believe that the wrong that she committed stands, as it has stood, as a mark against her and her record, but that it is properly for those who have elected her to public office knowing the facts of her

conviction to decide whether she should serve again. They will have an opportunity in November to decide whether anything has changed and it is my view that the voters should make the decision with respect to her continued service," the Governor said in his statement.

He added: "I am fully aware that this is a controversial decision that will provoke much emotion and discussion. However, after much soul searching, I have concluded that the best decision I can make is the one I have made because I know that that decision will be immediately put to the test of ratification by the electorate of St. Croix."