

The Virgin Islands Consortium

Breaking: V.I. Supreme Court Blocks Hansen Again, Denies AG's Appeal

Politics / **Published On September 13, 2014 11:47 PM /**

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On Fri., Sept. 12 at 5:08 p.m., the Supreme Court of the Virgin Islands denied a petition made by Attorney General Vincent Frazer that sought to grant a rehearing of the Bryan v. Fawkes case, court documents obtained by the *VI Consortium* confirm, which means the Supreme Court's Aug. 28 ruling barring Senator Hansen from the November 4 ballot still stands. According to the Supreme Court, Elections Supervisor Caroline Fawkes did not "state with particularity the points of law or fact which...the Supreme Court has overlooked or misapprehended" that would justify the Court reversing its Aug. 28 ruling.

On Sept. 11, less than 24 hours before the District Court of the Virgin Islands Chief Justice Wilma A. Lewis announced her verdict and gave her opinion on the issue of Sen. Alicia "Chucky" Hansen's name being placed back on the November 4 ballot, V.I. Attorney General Vincent Frazer filed a motion in the Virgin Islands Supreme Court to rehear the court's original ruling, made on Aug. 28, that barred Sen. Hansen from being on the ballot because her three convictions in 2008 of failure to file taxes, the high court found, were crimes of moral turpitude.

Frazer, in his motion, cited three issues with the V.I. Supreme Court's ruling that, according to him, needed to be addressed.

First, Frazer argued the Court's determination to set aside nomination papers prior to the election or oath of office was premature, since the defect (Hansen's three convictions of failing to file taxes) was curable prior to the November election. Secondly, the attorney general contended that due process rights and the ex post facto law—which retroactively changes the legal status of actions that were committed, or relationships that existed, before the enactment of the law established by Section 3 of the Revised Organic Act and the Fourteenth Amendment of the U.S. Constitution—may have been violated by the retroactive effect of the court's Aug. 28 ruling. And thirdly, Frazer says the U.S. Supreme Court has redefined its definition of "willful" as it relates to tax cases, pointing toward the [Cheek v. United States](#) verdict.

In its opinion accompanying the verdict, the Supreme Court of the Virgin Islands opined that Fawkes had "primarily used her rehearing petition as a vehicle to either re-litigate issues that this Court duly considered, or to raise new arguments for the first time on rehearing that could have been--but were not--raised in her appellate brief."

Of much interest, however, is the Supreme Court's admittance that its decision to reverse the Superior Court's July 30, 2014 order, directing the Superior Court, on remand, to grant Adelbert Bryan's petition and order Fawkes to set aside the nomination papers of Alicia "Chucky" Hansen, "was premature since the defect was curable by pardon from the Governor restoring [her] civil rights."

Yet, the Supreme Court argues that Hansen or Fawkes could have requested a certain time by which to obtain a pardon to cure Hansen's crimes involving moral turpitude before moving ahead with the case, but "for whatever reason did not do so."

On Sept. 12, the Supreme Court of the Virgin Islands Ordered that:

- The petition for rehearing is denied.
- Copies be served on the appropriate parties.

The Supreme Court of the Virgin Islands is the land's highest court, so its order to deny the Attorney General's appeal and reaffirm its decision to block Hansen from appearing on the November 4 ballot is well within the Court's power. This was confirmed by legal professionals with whom the *VI Consortium* conferred on the matter. Thus, it remains to be seen what will happen on Sept. 26, the day the District Court's temporary restraining order awarded to Hansen by Chief Justice Wilma Lewis, comes to an end.

Verbatim: From the Supreme Court of the Virgin Islands September 12, 2014 ruling:

"Hansen was not eligible to be nominated for membership in the 31st Legislature when she filed her nomination papers on May 13, 2014, due to her convictions for crimes involving moral turpitude. Nor was eligible on August 28, 2014, when this Court issued its opinion reversing the Superior Court's July 30, 2014 order, or on August 29, 2014, when the Superior Court, on remand, ordered her removal from the ballot. While the Superior Court, in its discretion, could have arguably provided Hansen with a date certain by which to obtain a pardon, at no point did Fawkes or Hansen request that it exercise that discretion. After the Superior Court granted Hansen permission to intervene, Hansen filed a motion to dismiss; at no point did she request, in the alternative, that the Superior Court provide her with an opportunity to cure the defect alleged in Bryan's petition. Similarly, although the matter had been pending before the Superior Court for approximately three months, Fawkes Never requested that the Superior Court exercise its discretion under section 412 to provide Hansen with an opportunity to cure."

[Order - Per Curiam Order \(Bryan v Fawkes\) \(2\).](#)