

The Virgin Islands Consortium

Judge Lewis Grants "Chucky" Permanent Injunction, Supreme Court Ruling Annulled

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Ernice Gilbert **September 24, 2014**



Wilma A. Lewis, the Chief Justice of the District Court of the Virgin Islands, has ordered Sen. Alicia "Chucky" Hansen back on November 4 ballot by way of permanent injunction.

The *VI Consortium* obtained a copy of the ruling from the District Court of the Virgin Islands earlier today.

(Click [here](#) to view scans of Judge Lewis' Order)

Judge Lewis Ordered:

That the plaintiff's request for a Permanent Injunction is GRANTED;

That the Defendants Caroline Fawkes, as Supervisor of Elections for the Virgin Islands, and the Joint Board of Elections are directed to place Senator Alicia "Chucky" Hansen's name on the ballot for the upcoming November 4, 2014 general election;

That Plaintiffs' request for declaratory relief is GRANTED IN PART AND DENIED IN PART;

That the Court enters a declaratory relief for Plaintiffs as follows: the "Pardon of Alicia "Chucky" Hansen issued by John P. de Jongh, Jr., Governor of the Virgin Islands, on September 3, 2014 "removes any impediment" under Section 6 (b) of the Revised Organic Act to Senator Hansen's eligibility to run for the office of Senator in the Legislature of the Virgin Islands, based on Senator Hansen's 2008 convictions for willful failure to file income tax returns;

That Plaintiffs' request for declaratory relief as it pertains to Senator Hansen's current service as a Senator in the Legislature of the Virgin Islands DENIED WITHOUT PREJUDICE;

That this Order supersedes this Court's Temporary Restraining Order entered on September 12, 2014;

SO ORDERED.

Judge Lewis' Opinion on the Supreme Court of the Virgin Islands September 12 Ruling:

Judge Lewis, in her opinion released today along with the ruling, stated that: "The Supreme Court's September 12 Order denying Rehearing as "Not for Publication," which, under the Supreme Court's Internal Operating Procedures, means that a determination was made by the Justices that a written opinion would have "no precedential or institutional value," and the unpublished Order is not considered by the Supreme Court to be binding precedent. Moreover, to the extent that the Supreme Court's pronouncements in the Order should be deemed to provide guidance as to its future rulings, it is noteworthy for present purpose that the September 12 Order focuses on an interpretation of Title 18 V.I.C. § 412, while acknowledging that 18 V.I.C. § (c) -- upon which this Court's opinion in the instant matter is based -- is a "different provision."

Judge Lewis continued: "In any event, in interpreting the provisions of the Virgin Islands Election Code herein -- and attempting to predict how the Supreme Court would rule in this virtually uncharted territory -- this Court has considered the extent to which the Supreme Court's September 12 ruling provides any relevant insights that should guide the resolution of the instant matter. The Court finds that the Supreme Court's September 12 Order does not alter the Court's conclusions reached above.

"There are two issues arising from the Supreme Court's September 12 Order that are worthy of mention in the present context. First, in interpreting a provision in Section 412 that "authorizes the Superior Court to provide a candidate with an opportunity to cure," the Supreme Court noted: "Given that Bryan's objection in this case related to Hansen's eligibility to run given her convictions for crimes involving moral turpitude, it is not clear

whether the defect in this case could be characterized as a defect with the nomination paper itself." The Supreme Court continued: "In any case, we decline to decide the issue as part of this rehearing petition."

Judge Lewis said that the above passage, "does not aid this Court in resolving the issues presented here. In interpreting Section 412, the Supreme Court raises the question whether a defect in a candidate's qualifications can be deemed to constitute a defect in the nomination papers. However, it declined to answer the question in addressing the rehearing petition before it. As discussed above, a similar issue is raised in the context of Section 411. Based on this Court's analysis of Section 411 -- including the language of the statutory provisions, the common meaning of the operative words, and the interpretation of the same provisions in *Moohead* -- this Court answered the question in the affirmative. In raising and not answering a similar question under Section 412, the Supreme Court's September 12 Order affords no guidance that alters this Court's conclusion that a candidate's failure to satisfy the qualifications for office -- including by having an unpardoned conviction for crime involving moral turpitude -- renders the candidate's nomination papers defective within the meaning of Section 411 (c)."

VI Consortium Retraction

On September 14, just two days after Judge Lewis ruled in Hansen's favor and granted the senator a temporary restraining order against the Board of Elections to place Hansen's name back on the November 4 ballot, and one day before the Supreme Court decided not to rehear the *Bryan v. Fawkes* case as motioned by Attorney General Vincent Frazer, the *VI Consortium* was contacted by a trusted source, [who read out a purported ruling that District Court of the Virgin Islands Judge, Wilma Lewis, had just issued](#) -- though it was not yet available to the public. The source said that as of 10:30 p.m. on the night of Sept. 13, the temporary restraining order granted to Sen. Alicia "Chucky" Hansen was dissolved. The source also told the *VI Consortium* the ruling would be made public the following morning, on Sept. 15; however, no such ruling came. As we deemed our source trustworthy and accurate--characteristics that had been so proven in the past--*VI Consortium* management decided against pulling our story until Judge Lewis publicly ruled.

That day is today. Judge Lewis's ruling represents the exact opposite of what we reported and so the *VI Consortium* apologizes to all involved and, most importantly, our valued readership.

Timeline

If there is anything that has consumed Virgin Islands' politics in the last few weeks, it must be the *Bryan v. Fawkes* court battle that saw the St. Croix District Board of Elections Chairman, Adelbert Bryan, suing the Elections Supervisor, Caroline Fawkes. Bryan alleged that beleaguered senator Alicia "Chucky" Hansen was not qualified to be on the Nov. 4 ballot because of [crimes she committed](#) that fell under the "moral turpitude" umbrella.

And so it began. First, the Superior Court of the Virgin Islands ruled in Sen. Hansen's favor, stating she was eligible to be placed on the ballot, but Bryan did not stop there. The case was appealed to the Supreme Court of the Virgin Islands and that was when

the real action took off. [The High Court opined that](#), "Senator Hansen's failure to file tax returns is a crime involving moral turpitude that renders her ineligible to serve in the 31st Legislature. Thus, we reverse the Superior Court's July 13th, 2014 order and direct the Superior Court to grant Bryan's petition, and remove Hansen from the General Election's ballot."

No one knew what turn the story would take from there, but we would soon find out. Hansen's attorney, Lee Rohn, immediately called on the governor to pardon her client, and both Virgin Islanders and pundits alike cemented in their minds that Governor de Jongh would pardon the embattled senator, especially after strongly hinting he would do so in a press release made available to the public on [August 31, 2014](#). The governor said in the release that St. Croix voters knew of Hansen's convictions of willfully failing to file her taxes, yet they voted her into office for the 29th and 30th Legislatures. The governor also revealed he had instructed Attorney General Vincent Frazer to look into the issues presented by the Supreme Court and to also examine Hansen's request for a pardon.

The wait was not long.

On Sept. 3, 2014, [Governor de Jongh pardoned Senator Hansen](#), a move that sent the Virgin Islands into somewhat of a tailspin, with many residents expressing disbelief at what was unfolding before their eyes. Swiftly, almost like clockwork, Hansen's attorneys determined the governor's pardon was retroactive and had "cured" all the veteran senator's "ills," which then made her, in their minds, an eligible candidate for the November 4 General Election.

Consequently, the [Board of Elections was sued by Hansen and her supporters](#), alleging that because Governor de Jongh's pardon had cured Hansen's crimes, Supervisor of Elections Caroline Fawkes should have placed her name back on the ballot. The case was taken to the District Court of the Virgin Islands, presided over by Chief Justice Wilma A. Lewis, and after hearing testimonies from both sides--which were essentially the same--as the Attorney General's Office, representing Caroline Fawkes, had no objections to the plaintiffs' case except that Fawkes was given an order by the Supreme Court of the Virgin Islands to remove Hansen's name from the ballot, and that is what she followed. In fact, the apparent collusion between the plaintiffs and the defendant was so evident that even Judge Lewis asked whether there was any difference in their cases. Both sides agreed there was "fundamentally" no difference in their arguments.

Unconvinced that the plaintiffs had enough evidence to prove Governor de Jongh's pardon was retroactive, on Sept. 10, [Judge Lewis gave Lee Rohn and her team four hours](#) to return to the court with evidence supporting their claim that Hansen should be placed back on the Nov. 4 ballot.

Things went silent for almost two days, but on the morning of Fri., Sept. 12, [Judge Lewis granted Sen. Alicia "Chucky" Hansen a temporary restraining order](#), and ordered the Supervisor of Elections to place Hansen's name back on the ballot.

Meanwhile, just one day before Judge Lewis' order was released, [the Attorney General filed](#) a motion with the Supreme Court to rehear the Brian v. Fawkes case; however, on the night of Fri., Sept. 12, the Supreme Court [denied](#) the rehearing and reaffirmed its stance that Hansen was not eligible to run for office on November 4.

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. In essence, the Pennsylvania-based Third Circuit Court of Appeals gives the V.I. District Court the power to rule how it predicts the V.I. Supreme Court would rule in a given case. This is the case with all U.S. Courts.