

# The Virgin Islands Consortium

## Superior Court Denies Hansen Recount Petition, Says BOE Action "Null And Void"

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**Former Senator Alicia 'Chucky' Hansen.**

The Superior Court of the Virgin Islands has denied a petition by Sen. Alicia "Chucky" Hansen to recount the 2014 General Election ballots that were cast in her favor, after Sen. Nellie Rivera O'Reilly took the Board of Elections, St. Croix District to court, along with Hansen, contending that the embattled senator was not an eligible candidate to be on the ballot, therefore she should not be permitted to seek a recount. O'Reilly also sought Action for Mandamus against BOE, citing discrepancies and other infractions in the Board's attempt to conduct the recount. Read the full Order and Opinion [here](#).

In his written Opinion, Justice Harold Willocks said, based on the Court's findings, "Hansen is not a "candidate" as defined by Title 18 of Virgin Islands Code. Because Title 18, Section 629 (a) only states that a petition for a recount may be filed by a "candidate," Hansen does not have a right to petition the Board of Elections for a recount of her votes."

The Opinion added that the Court "will grant O'Reilly's request for a Writ of Mandamus (an order from a court to an inferior government official ordering the government official to properly fulfill their official duties or correct an abuse of discretion), and the Board is estopped from acting on Hansen's Petition for Recount and any action taken on her



Senator Alicia 'Chucky' Hansen

The Board of Electons, St. Croix District had already recounted Hansen's ballots, and met today to "hopefully," according to BOE Vice Chairwoman Lilliana Belardo de O'Neal, certify the recount.

Speaking to *VI Consortium*, de O'Neal said, "even if the judge hadn't made the decision, the numbers were not going to make much difference in the position of any candidate." She would not, however, reveal the numbers to the press because at least four members of the board were needed to certify the election before taking such action. At that time, only two members were present: O'Neal and Lisa Harris-Moorhead.

The Board had previously spent days recounting the ballots, which also included ballots cast for Sen. Diane Capehart and former Board of Elections candidate, Epiphane Joseph. O'Neal said she did not know when the board would convene to certify Capehart and Epiphane's recounted ballots, however, she said, the Joint Boards of Elections will meet on Dec. 29 at 4 p.m.

*VI Consortium* later confirmed that the meeting will be held at the Elections System Office on St. Croix.

Judge Willock's Order is yet another turn in the seemingly unending saga of Sen. Alicia "Chucky" Hansen, who, after being convicted of three counts of failure to file an income tax return for the 2002, 2003 and 2004 tax years, found herself in a legal whirlwind that began when BOE Chairman, Adelbert Bryan, filed a complaint with the Supervisor of Elections, Caroline F. Fawkes, regarding Hansen's eligibility to sit as a member of the 30th Legislature.

## **Back Story**

On May, 2014, Hansen filed her nomination papers for the 2013 elections and Fawkes certified her papers, finding that Hansen met the qualifications to serve as a Senator.

On May 19, 2014, Bryan filed a petition with the Superior Court arguing that Hansen's candidacy should not have been certified by Fawkes, because Hansen had been convicted of a crime of moral turpitude. Hansen then moved to intervene and on June 4, subject matter jurisdiction.



Sen. Alicia "Chucky" Hansen supporter

holding up sign on Nov. 4, Gen. Election day.

The Superior Court 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 so examine Hansen's request for a pardon.



Sen. Alicia "Chucky" Hansen looking at BOE

member Roland Moolenaar count ballots.

*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



ence in their arguments.

Sen. Alicia "Chucky" Hansen after a court

hearing at the District Court of the Virgin Islands

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.

[On September 24](#), Lewis ordered the Board of Elections to keep Sen. Hansen's name on the Nov. 4 ballot by way of permanent injunction. However on October 2, [Lewis remanded the case](#) back to the Superior Court of the Virgin Islands.

Back in the jurisdiction of the Superior Court, Judge Douglas Brady released what had appeared to be the final ruling on the matter of Bryan v. Fawkes, denying Bryan the motion to remove Sen. Alicia "Chucky" Hansen from the Nov. 4 ballot. Bryan would not



relent, however, and moved to appeal the case back to the Supreme Court.

On Friday, October 24, the Supreme Court of the Virgin Islands gave a [final ruling](#) on embattled Senator Alicia “Chucky” Hansen’s fate for the 2014 elections. The High Court ruled that Hansen’s name be removed from the November 4 ballot. It also ordered Elections Supervisor Caroline Fawkes to “immediately recall all general election ballots for the November 4, 2014, or to find other means of omitting her name, such as covering it with a sticker.”

That was when Hansen, with no other options remaining, decided to launch a write-in campaign.

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