

The Virgin Islands Consortium

Supreme Court Overturns Superior Court Ruling; Blocks John Yob From Moving Forward

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The Supreme Court of the Virgin Islands today [issued an opinion](#) stating that the Superior Court of the Virgin Islands "committed error" when it denied Valerie Stiles' -- selected by local Republican Party Chairman John Canegata [as an alternate delegate](#) to represent the territory at the Republican National Convention, to be held in Cleveland, Ohio -- of the opportunity to prove that John Yob (also Ms. Yob and Lindsey Eilon) provided a false affidavit in connection with his voter registration application.

The Supreme Court reversed the case and remanded with instructions that the Superior Court grant Stiles's motion to amend and to conduct further proceedings.

According to Ms. Stiles' attorney, Edward Barry, the Yobs swore under oath they were not registered anywhere else. "We have proof they were," he told The Consortium this afternoon. Mr. Barry said he's now seeking an emergency hearing for his client to decide the issue.

Republican Convention events start July 18 and runs through the 21st, and Ms. Stiles' told The Consortium this afternoon that she intended to use the Supreme Court's ruling to challenge the Yobs before the Credentials Committee.

"I am reserving my right to challenge my eligibility as a delegate from the Virgin Islands before the Credentials Committee, notwithstanding the report of the Contests Committee, based on a decision just issued by the Virgin Islands Supreme Court," she said.

The ruling complicates further an already convoluted issue that had seemingly come to an end when the Superior Court [ruled](#) that there was no 90-day residency deadline or requirement to register to vote in the territory.

Background, according to the Supreme Court

On March 9, 2016, John P. Yob, Erica L. Yob, Lindsey Eilon, and Ethan Eilon sued the Supervisor of Elections-Caroline Fawkes-as well as the Virgin Islands Joint Board of Elections and the Board of Elections for the St. Thomas-St.John District. In their verified complaint, the Yobs and Eilons challenged Fawkes's decision to remove them from the list of electors for the Election District of St. Thomas and St. John for purportedly not complying with the residency requirements set forth in 18 V.I.C. § 262.

Specifically, they argued that Fawkes had misinterpreted the statute to impose a 90-day waiting period prior to qualifying for registration as an elector, and that, in the alternative, a 90-day waiting period was unconstitutional. On the same day, they filed a motion for a temporary restraining order enjoining Fawkes and the Boards of Elections from declaring them ineligible to vote, since revoking their voter registrations could interfere with their candidacies to serve as at-large delegates to the Republican National Convention, who would be selected at the Virgin Islands Republican Caucus to be held on March 10, 2016.

The Superior Court granted the temporary restraining order on March 10, 2016. On March 17, 2016, Stiles filed a motion to intervene in the matter, which the Superior Court granted on March 29, 2016. On the same day, the Superior Court converted the temporary restraining order into a preliminary injunction. Stiles filed an "Expedited Motion for Leave to File Superseding Amended Answer in Intervention and Counterclaim" on April 11, 2016, which the Superior Court summarily denied in an April 25, 2016 order without explaining its reasoning. Subsequently, Stiles filed a motion for reconsideration of the April 25, 2016 order, which the Superior Court denied on May 11, 2016. Although the Superior Court stated that it would issue an opinion explaining its basis for denying Stiles's motion, it ha[d] not yet done so.

On May 23, 2016, Stiles filed a document captioned "Expedited Motion for Rule 54(b) Certification, Alternative Motion for Certification; Alternative Motion for Certification Under 4 V.I.C. § 33(c)." The Superior Court, in a May 26, 2016 order, stated that it was certifying its April 25, 2016 and May 11, 2016 orders for immediate appeal under Federal

Rule of Civil Procedure 54(b), which it concluded were applicable through Superior Court Rule 7. However, the Superior Court failed to certify either of these orders for interlocutory appeal under 4 V.I.C. § 33(c).

Stiles attempted to appeal the April 25, 2016 and May 11, 2016 orders to the Supreme Court. However, on June 8, 2016, the Supreme Court dismissed her appeal for lack of jurisdiction because Federal Rule of Civil Procedure 54(b) is a "wholly invalid" means of certifying an interlocutory appeal the Supreme Court, and the Superior Court never certified any of its orders for immediate appeal under 4 V.I.C. § 33(c).

Moreover, the Supreme Court observed that the practical finality exception to the final judgment rule could not apply because the Superior Court had promised to issue an opinion explaining the reasoning for its denial of Stiles's motion to amend, but had not yet done so.

On July 2, 2016, the Superior Court issued an opinion explaining its reasons for denying the motion to amend. The Superior Court outlined the extensive procedural history of the case, and noted that the matter before it was limited to the existence of the 90-day durational requirement, since in an earlier decision it had precluded Fawkes from arguing, as a defense, that the Yobs and Eilons were not bona fide Virgin Islands residents since they allegedly spend more than 50 percent of their time in Michigan. It also noted that Fawkes had elected to abandon the case after the Superior Court converted the temporary restraining order into a preliminary injunction.

Although the Superior Court recognized that permitting Stiles to challenge the Yobs' and Eilons' residency as a counterclaim would bring that matter definitively before it, it denied the motion to amend her answer to assert such a counterclaim solely due to her status as an intervenor. In reaching that decision, the Superior Court recognized that, in *Bryan v. Fawkes*, 61 V.I. 201, 221 (V.I. 2014), this Court held an "intervenor is treated as if [it] were an original party and has equal standing with the original parties," and therefore could not resurrect a claims-processing rule that the original defendant had already waived. Nevertheless, the Superior Court announced that it "finds inspiration" from a case decided by the United States Court of Appeals for the Second Circuit in which "[e]fficiency ... is the cardinal consideration" as to whether an intervenor could assert a counterclaim.

Applying the standard announced by the Second Circuit, the Superior Court concluded that "[a]lthough Stiles's counterclaim is thematically related to Plaintiffs' cause of action in the superficial sense that it concerns similar terminology, i.e. residency, the underlying claims are fundamentally dissimilar in terms of the relevant law and facts," which "would require a fact-intensive evidentiary investigation" that would be "an order of magnitude larger than the case between the original parties." For this reason, the Superior Court denied the motion. On the same day, the Superior Court issued a declaratory judgment [decreeing that the Virgin Islands Code does not impose a 90-day durational residency requirement on prospective Virgin Islands voters](#), in effect preventing Fawkes or the Boards of Elections from revoking the Yobs' or Eilons' voter registrations on that basis.

Stiles filed a notice of appeal with the Supreme Court on July 7, 2016, and moved that the Supreme Court expedite the appeal because the Supreme Court's decision may affect the certification of Virgin Islands delegates to the Republican National Convention, which is set to begin on July 18, 2016. The Supreme Court, in an order issued the same

day, granted the motion and set an expedited schedule in which the parties were to file all briefs by July 11, 2016, with oral argument scheduled for July 12, 2016.

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