

The Virgin Islands Consortium

Kevin Rodriguez's Senate Seat In Question As Supreme Court Upholds Superior Court Ruling

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Kevin Rodriguez

ST. THOMAS -- The Supreme Court of the Virgin Islands on Wednesday upheld the decision of the Superior Court denying a motion to dismiss that was filed by Kevin A. Rodriguez, who sought to end a challenge brought against him by Janelle K. Sarauw and Brigitte Berry, claiming that Mr. Rodriguez should not be allowed to [hold a seat as a senator in the 32nd Legislature](#), because he did not meet residency requirements.

Mr. Rodriguez had sought to paint a portion of the Revised Organic Act of 1954 that pertains to domicile for those seeking elected office, as unconstitutional. That portion of the Act states that no person is allowed to be a member of the Legislature if he/she had not been a bona fide resident of the Virgin Islands for three years preceding the date of the next election.

Mr. Rodriguez claimed in a bankruptcy filing in Tennessee to be a resident of the state, with his address listed as 4956 Indian Summer Drive in Nashville, Tenn. The case was dismissed on July 25, 2016, but a section of a form related to the case that asks where one lived for the past three years — the form involved specifically asking whether Mr. Rodriguez had lived anywhere else other than Tennessee for the past 3 years — Mr. Rodriguez answered no.

In its ruling, seen [here](#), the Supreme Court said, "Although the Superior Court erred when it applied a test for ascertaining taxpayer residency to determine whether Rodriguez is a bona fide resident of the Virgin Islands for election purposes, the error is harmless given that the same factors are relevant to determining domicile, which is synonymous with bona fide residence.

"The Superior Court further correctly held that laches did not bar Sarauw and Berry's claim, and did not commit clear error when it weighed the evidence to determine that Sarauw and Berry were likely to succeed in their claim that Rodriguez was not a bona fide resident of the Virgin Islands for the three years preceding the 2016 general election. Accordingly, we affirm the December 29, 2016 opinion and order."