

The Virgin Islands Consortium

Territorial Voting Rights Brief Filed in Seventh Circuit

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Earlier today Plaintiffs from Guam, the U.S. Virgin Islands, and Puerto Rico filed their opening brief before the U.S. Court of Appeals for the Seventh Circuit challenging discriminatory overseas voting laws and making the case that where you live shouldn't impact your right to vote for president. The brief comes just days after the Harvard Law Review published a special feature, "[Developments in the Law: U.S. Territories](#)," addressing the unequal status facing the over 4 million citizens who live in the territories.

"We are optimistic that the Seventh Circuit will recognize that the right to vote is 'fundamental' for all Americans, including those in U.S. territories," said Neil Weare, President and Founder of [We the People Project](#), a non-profit that advocates for equal rights and representation in U.S. territories. "We are pleased the Harvard Law Review is

giving attention to how the courts and Congress have historically treated citizens in U.S. territories with a second-class status. This case represents an important opportunity for the Seventh Circuit to change that narrative.”

“Federal and state absentee voting laws arbitrarily draw lines among former state residents moving overseas, including between those who live in different Territories. This isn’t just wrong, it’s unconstitutional,” said Geoffrey Wyatt, who is leading a group of pro-bono attorneys supporting the case.

The *Segovia* plaintiffs are appealing a district court decision that relied on the much-maligned *Insular Cases* to hold for the first time that the right to vote is not a “fundamental right” in U.S. territories. In doing so, it applied the lowest level of judicial scrutiny – rational basis review – to uphold federal and state overseas voting laws that allow former state residents to continue voting for President and voting representation in Congress by absentee ballot if they live in the Northern Mariana Islands, American Samoa, or a foreign country, but not Guam, the U.S. Virgin Islands, or Puerto Rico. All case filings are available at <http://www.equalrightsnow.org/segovia>.

Luis Segovia, the lead plaintiff, is a member of the Guam Army National Guard, serving two deployments to Afghanistan. He also was deployed to provide security during the 2005 Iraqi Elections. “Veterans and Soldiers from Guam and other U.S. Territories have pledged allegiance to the flag and fought to protect and defend our country only to be denied the right to vote,” Mr. Segovia said. Also serving as plaintiffs in Guam are Anthony Buntin, also a Veteran, and the Iraq, Afghanistan and Persian Gulf Veterans of the Pacific.

Pamela Colon, a criminal defense lawyer in St. Croix, VI who is a plaintiff in the case, explained “Virgin Islanders are required to follow federal laws, shouldn’t we have a say in making those laws? Voting rights would mean having a say in who our President is, who our federal judges are, and what laws we are required to follow.” Also serving as plaintiffs in the U.S. Virgin Islands are Lavonne Wise and the League of Women Voters for the Virgin Islands.

Jose Antonio Torres, a disabled Vietnam-era Veteran living in Puerto Rico who also served for 22 years in the U.S. postal service, explained, “Puerto Rican service members are equal on the battlefield, it’s time we are treated as equal at the ballot box. It’s shameful that I am treated as a second-class citizen even after spending a career in public service.” Tomas Ares, another Vietnam-era Veteran living in Puerto Rico, is also a plaintiff.

Another development is that the Harvard Law Review has taken up a number of the issues raised by the *Segovia* case in a special feature “[Developments in the Law: U.S. Territories](#).” The issue was published on April 10th, with more than 100 pages devoted to legal issues facing residents of U.S. territories.

- “[Introduction](#)”: Presents an overview of the inequality and second-class constitutional status facing the more than 4 million residents of U.S. territories.
- “[Territorial Federalism](#)”: Argues for heightened judicial scrutiny of laws impacting territorial residents based on their disenfranchisement from the political process, one of the issues on appeal in *Segovia*.

- [“The International Place of Puerto Rico”](#): Examines the gap between democratic commitments the United States has made to the United Nations and continued disenfranchisement today, arguing that Puerto Rico should be relisted as a “Non-Self-Governing Territory.”
- [“American Samoa and the Citizenship Clause: A Study in *Insular Cases* Revisionism”](#): Reviews *Tuaua v. United States*, another case litigated by We the People Project, and the D.C. Circuit’s expanded application of the *Insular Cases* to deny recognition of birthright citizenship in U.S. territories.
- [“Guam and the Case for Federal Deference”](#): Argues that federal courts should defer to territorial high courts on matters of purely local concern.

Outside the courtroom, We the People Project is also advocating for a constitutional amendment which would provide full enjoyment of the right to vote to all of the nearly 5 million residents of U.S. territories and the District of Columbia. One approach by We the People Project President Neil Weare, [“Equally American: A Voting Rights Amendment For U.S. Territories and the District of Columbia,”](#) is forthcoming in the next issue of *Stetson Law Review*. In March, Congresswoman Stacey Plaskett (Virgin Islands) introduced [H.J.Res 91](#), proposing a constitutional amendment to provide the right to vote for President to residents of U.S. territories.

For interviews with plaintiffs or attorneys in the case, please contact Neil Weare at nweare@equalrightsnow.org or 202-304-1202.