

The Virgin Islands Consortium

Sarauw, In New Suit, Asks Court To Force Board Of Elections To Certify Special Election Results

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ST. THOMAS -- Janelle Sarauw, who won the April 8 special election called by Governor Kenneth Mapp, but has yet to be seated because the St. Thomas Board of Elections has decided against certifying the election, today filed a new lawsuit in the Superior Court of the Virgin Islands, asking the court for writ of mandamus -- a judicial remedy in the form of an order from a superior court, to any government subordinate court, corporation, or public authority, to do (or forbear from doing) some specific act which that body is obliged under law to do (or refrain from doing) and which is in the nature of public duty.

The new action, documents of which are [here](#) and [here](#), is the latest of a series of lawsuits being filed by both the Sarauw and Kevin Rodriguez camps.

When Ms. Sarauw, above, won the special election, the hope of many was that the St. Thomas Board of Elections would have certified the election, which would have brought the long-running saga -- which began shortly after the November 2016 General Election -- to an end.

But the St. Thomas District B.O.E., during a meeting on April 24, voted against certifying the special election. The move sent further into question the fate of a 15th Senate seat that has been vacant since the Supreme Court of the Virgin Islands [barred Senator-elect Rodriguez from being sworn-in](#), based on residency discrepancies surrounding his candidacy.

The prevailing vote not to certify the election succeeded with a 3-2 margin, with board members Maurice Donovan (Mr. Donovan made the motion not to certify), Board Chairman Arturo Watlington, Jr. and Carla Joseph voting in favor of the motion. Voting against the motion were board members Ivy Moses and Lydia Hendricks. Board member Diane Magras abstained from voting.

Board attorney Julita de Leon, in past meetings, has said that Mr. Rodriguez would first have to be decertified in order for the Board of Elections to certify the special election, which would give Ms. Sarauw her seat — a move that Ms. de Leon maintains only the Legislature can remedy.

When District Court Judge Curtis Gomez dismissed the Rodriguez suit, he also dismissed a challenge by Ms. Sarauw — in essence giving neither Mr. Rodriguez nor Ms. Sarauw a victory. An appeal by Mr. Rodriguez to stop the certification of the special election was also dismissed.

But Mr. Rodriguez has yet to be deemed ineligible for the seat by any court, according to Ms. Leon, in essence leaving two elected candidates — one during the November 2016 general election, and the other during the April 8, 2017 special election — eligible for the 15th seat.

In her latest suit, however, Ms. Sarauw disagrees that she is not eligible to be seated and takes issue with whether Board of Elections members have any power, "except to perform the ministerial duty" of certifying the special election. The suit adds that Ms. Sarauw has satisfied all requirements needed to obtain mandamus relief. It says Ms. Sarauw has no other adequate means to obtain the relief sought; has a clear and indisputable right; and that the writ is not inappropriate under the circumstances.

"The Board of Elections members do not possess the power to refuse to perform the mandatory ministerial certification of the April 8, 2017 Special Election," reads a portion of the suit. "It is not unusual for courts to issue mandamus to compel an elections board to certify an election."

To bolster Ms. Sarauw's position, the suit pointed to a similar case that was heard in 1925 in Boston, Massachusetts, involving a board's attempt to certify a winning candidate who, the suit alleges, "everyone knew died before election and the board's subsequent attempt to appoint a replacement. According to Ms. Sarauw's suit, the court issued a writ to certify the election for the second highest vote-getter.

"Sarauw was the winning candidate of the April 8, 2017 Special Election; thus, she has a clear and indisputable right to request mandamus relief," reads the suit.

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