

The Virgin Islands Consortium

Rodriquez's Fate To Be Determined On June 27 During Senate Session

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ST. THOMAS -- The long-running matter of whether Kevin Rodriguez is eligible to be seated as a 32nd Legislature senator after winning a seat during the Nov. 8, 2016 general election, will be determined on June 27 during a Senate session at the Earl B. Ottley Legislative Hall, according to a release issued by the Senate.

"Pursuant to section 6g of the Revised Organic Act of the Virgin Islands, the 32nd Legislature will convene a regular session to judge the qualifications of Senator-elect, Kevin A. Rodriguez to serve in the 32nd Legislature of the Virgin Islands," reads the release. The announcement comes six days after the Third Circuit Court of Appeals [ruling](#) concluding that only the 32nd Legislature can determine Mr. Rodriguez's fate.

At the session, Mr. Rodriguez will be given an opportunity to defend his eligibility to be seated, a moment with the potential of being a spectacle.

Senate President Myron Jackson last week [confirmed](#) to The Consortium that the body would take up the Rodriguez matter at the end of this month. “The 32nd Legislature will be guided by the ruling of the Third Circuit,” Mr. Jackson said. “We will do what is required based on the Third Circuit ruling, and move accordingly.”

Invited testifies include Claude Walker, the territory’s attorney general, Caroline Fawkes, supervisor of elections, Barbara McIntosh, chairwoman of the Joint Board of Elections, Ivy Moses, Bridgitte Berry and the April 8 special election winner, Janelle Sarauw.

The appellate court’s Friday judgement upended the April 8 special election results called by Governor Kenneth Mapp to fill the 32nd Legislature’s 15th seat, when it ruled that injunctions by Ms. Sarauw blocking Mr. Rodriguez from taking the oath of office had been dissolved, and that it was now left up to the 32nd Legislature to judge Mr. Rodriguez’s qualifications for Senate membership.

“To the extent he is seeking the dissolution of the preliminary injunction enjoining him from taking the oath of office, that injunction was dissolved automatically when the District Court dismissed the Removed Action,” opined the Third Circuit.

The decision also represents a defeating setback for Ms. Sarauw, whose battle to be seated received a major boost after she won the special election; a boost that faded when the St. Thomas District Board of Elections [voted against certifying that election](#).

“The Revised Organic Act, as the Virgin Islands Constitution, and specifically § 6(g), contain a “textually demonstrable constitutional commitment” of power to the Legislature to determine the qualifications of its members,” reads the Third Circuit Court opinion, seen below. “This prevents courts from interfering with the Virgin Islands Legislature’s determination of the qualifications of its members, including whether they meet the residency requirement of § 6(b).”

The judgement also cites the 1989 case *Mapp v. Lawaetz*, 882 F.2d 49, 54 n.5 (3d Cir.), when the Senate decided to unseat then-Senator Kenneth Mapp. Part of that judgement reads: (“[U]nder the [ROA], the legislature is the ‘sole judge’ of whether [a member] met [the Act’s] eligibility requirements.”)

“Thus,” the Third Circuit opined, “under the plain language of § 6(g), once the 32nd Legislature convened, it alone had the authority to determine whether Rodriguez possessed the qualifications to be a member and was thereby entitled to take the oath and be seated.”

[Read the original document](#)