

The Virgin Islands Consortium

This Is it: Kevin Rodriquez v 32nd Legislature

Politics / **Published On June 27, 2017 11:13 AM /**

Staff **June 27, 2017**



This is it. The long-awaited day that sees the 32nd Legislature of the Virgin Islands dealing with a matter that the Third Circuit Court of Appeals has [opined](#) is squarely in the Senate's jurisdiction to determine: whether Kevin Rodriquez, who was elected a senator during the November 2016 general election, but subsequently barred from taking the oath of office following revelations about residency issues brought to the fore in court by suits from Janelle Sarauw and Brigitte Berry, will be sworn in as a member of the body, or scattered.

Today is just as important for Ms. Sarauw, who won the special election held in April.

Background

On January 25, 2016, Mr. Rodriguez filed a bankruptcy petition in the United States Bankruptcy Court for the Middle District of Tennessee. In his bankruptcy petition, Mr. Rodriguez swore under penalty of perjury that he lived in Tennessee and had not lived in another state anytime during the preceding three years. On November 8, 2016, the Virgin Islands held an election to choose senators to serve in the 32nd Legislature of the Virgin Islands. The District of St. Thomas-St. John was allotted seven seats to be filled by the top seven vote-getters.

After the election, Mr. Rodriguez placed sixth while Sarauw placed eighth. The Board of Elections certified the election results on November 22, 2016. On December 9, 2016, Ms. Sarauw and Ms. Berry, the latter a volunteer for Sarauw's campaign, filed a complaint in the Superior Court of the Virgin Islands. The complaint named as defendants Mr. Rodriguez; the Virgin Islands Joint Board of Elections; the Board of Elections St. Thomas & St. John; and Caroline F. Fawkes, the supervisor of elections. Ms. Sarauw and Ms. Berry continue to allege that Mr. Rodriguez is not qualified to serve in the Virgin Islands Legislature because he has not been "a bona fide resident of the Virgin Islands for at least three years next preceding the date of his election."

Developments

Multiple rulings followed, one of the most consequential being the Virgin Islands Supreme Court decision that [barred Mr. Rodriguez from being seated one day before inauguration](#). Mr. Rodriguez would later file with the District Court of the Virgin Islands, naming the Virgin Islands Legislature and its current president, Myron Jackson, as defendants. Mr. Rodriguez's preferred outcome would have seen the District Court forcing the Legislature to seat him. A subsequent suit was filed by Ms. Sarauw and Ms. Berry in the District Court against Mrs. Fawkes, the Joint Board of Elections, and the St. Thomas-St. John District Board of Elections.

But the District Court's ruling on February 7 left the matter in Governor Kenneth Mapp's corner, and Mr. Mapp called the April 8 special election, as demanded by the territory's laws. Ms. Sarauw won, but the St. Thomas St. John-District Board of Elections refused to certify the results, it too suggesting that the 32nd Legislature should deal with the matter.

Meanwhile, Mr. Rodriguez was still battling for his seat, taking the case all the way to the Third Circuit Court of Appeals, which made its opinion [abundantly clear](#): "Thus, under the plain language of § 6(g) [of the Revised Organic Act], 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," reads the appellate court's ruling in part.

Today's session is the culmination of a battle months in the making, and may well serve as a guide for future difficult decisions relative to seeking elected office, the role of the Senate, and the role of the judiciary in such matters.

The momentous session is slated to begin at 10:00 a.m.