

# The Virgin Islands Consortium

## Disenfranchised Residents Of U.S. Territories Seek Supreme Court Review

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After the U.S. Court of Appeals for the Seventh Circuit dismissed their equal protection claims earlier this year, the plaintiffs in *Segovia v. United States* are seeking review by the Supreme Court in a petition filed with the Court today, Equally American, a nonprofit founded in 2013 to advance equality and civil rights in U.S. territories, has announced.

Luis Segovia is a citizen and a proud veteran who served two tours in Iraq and one in Afghanistan – yet he cannot vote for president and lacks voting representation in Congress simply because of where he lives. Segovia, who lives in Guam, along with a group of veterans and others living in Puerto Rico and the U.S. Virgin Islands, would be able to vote for President and have voting representation in Congress if they lived in any

other U.S. territory or even a foreign country. But under federal and state overseas voting laws, former state residents have their right to vote for President and voting representation in Congress protected if they move to certain favored territories or foreign countries, but not if they move to certain disfavored territories.

"If I had moved to any U.S. territory except Guam, Puerto Rico, or the U.S. Virgin Islands, or even to a foreign country, I could still vote for President today. This kind of discrimination isn't just morally wrong, it's unconstitutional," said Luis Segovia, lead plaintiff in *Segovia v. United States*. "My right to vote should not depend on my Zipcode."

"No American should be denied voting representation in the laws they are required to follow," said Pamela Colon, a plaintiff living in St. Croix, who earlier in her career served as a federal public defender in the U.S. Virgin Islands. "The lack of democratic accountability in U.S. territories violates America's most basic values. This is especially true when you consider that the federal judges and federal prosecutors who enforce federal law in the territories are nominated by a President we can't vote for and confirmed by a Senate where we lack any representation."

"The Seventh Circuit's ruling conflicts with decisions of other federal circuits and the U.S. Supreme Court in a number of significant ways," said Neil Weare, President and Founder of Equally American, a non-profit organization that advocates for equality and civil rights for the nearly 4 million Americans who live in U.S. territories. "We hope these 'circuit splits' will encourage the Supreme Court to grant review of this important case."

The Seventh Circuit ruled that the Segovia plaintiffs lack legal standing to even challenge federal overseas voting laws, a holding that directly conflicts with other federal circuits. It also held that heightened judicial scrutiny does not apply in the absence of an underlying constitutional right to vote, which stands in conflict with other federal circuits and decisions by the Supreme Court. Finally, the Seventh Circuit held that voting laws can survive rational basis review based on facts that ceased to be true decades ago, a ruling that also conflicts with both circuit and Supreme Court precedent.

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. Also serving as plaintiffs in Guam are Anthony Bunten, another Veteran, and the Iraq, Afghanistan and Persian Gulf Veterans of the Pacific. Attorney Leevin Camacho serves as local counsel.

In the U.S. Virgin Islands, Plaintiffs include Pamela Colon, a criminal defense lawyer, Lavonne Wise, and the League of Women Voters for the Virgin Islands. Attorney Semaj Johnson serves as local counsel.

In Puerto Rico, Plaintiffs include Jose Antonio Torres, a disabled Vietnam-era Veteran who also served for 22 years in the U.S. postal service, and Tomas Ares, another Vietnam-era Veteran.

The Segovia plaintiffs are seeking a ruling that former state residents living in Guam, Puerto Rico, or the U.S. Virgin Islands are able to enjoy the same absentee voting rights as those living in other territories or a foreign country. They believe that this incremental expansion of voting rights will help create the necessary political pressure in Congress to

achieve full enjoyment of the right to vote for all residents of U.S. territories, which is their ultimate goal. Towards this end, Equally American is working outside the courtroom to advance political solutions so that Americans in U.S. territories have the same voting rights and representation as Americans anywhere.

A decision by the Supreme Court on whether to review the Seventh Circuit's decision in *Segovia v. United States* is expected when the Supreme Court begins its new term this Fall.

All case filings, including the petition, are available at <http://www.equalrightsnow.org/segovia>.

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