

The Virgin Islands Consortium

In Fight To Save Gubernatorial Bid, Nelson Files Suit Against B.O.E., Elections System In District Court

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ST. CROIX -- Senator Positive Nelson has filed suit against the Board of Elections and the Elections System of the Virgin Islands in the District Court, contending that he and his running mate, Gary Udhwani, were not given an opportunity to cure their nomination -- which Elections Supervisor Caroline Fawkes has deemed defective -- before being rejected.

During a press conference late May at Gertrude's Restaurant, the senator said his running mate was deemed ineligible because of filing issues. Ms. Fawkes contends that Mr. Udhwani's nomination was defective because though he filed on May 8, which was the last day for filing, some of the petitions were dated April 11 — well before

Mr. Udhwani's filing, which is a violation of the nomination process.

But the senator said he was not notified of his defective candidacy as local law dictates. According to Virgin Islands Code § 411, Section C, "When a nomination petition, nomination paper or nomination certificate is found to be defective, the candidate shall be notified immediately by special messenger with the reason or reasons therefor. If a new, valid petition, paper or certificate is not filed within three days thereafter, the candidate shall be disqualified for nomination or election."

Mr. Nelson is being represented by Attorney Trudy Fenster, who told The Consortium on Tuesday following a Board of Elections meeting at the Elections System here, that the court would rule in her client's favor. She said the case was filed in the District Court and not the local court because it included violation of citizens' rights -- a constitutional matter.

"You have first amendment rights, voting rights -- you're disenfranchising people who signed the petition and who want to share their ideas and spread their political beliefs, which are in sync with the senator's. They're being disenfranchised," Ms. Fenster said.

She added, "Then you have the 14th Amendment of the United States Constitution which is being violated because you have to provide due process when you make a decision that is going to disenfranchise voters and prevent the candidates their access to the general election ballot in November. So if, for example, Supervisor Fawkes decided that there was a defect -- and we're not saying there was any -- 411 C of Title 18 provides that they would have three days to cure. That's a due process right; it is guaranteed by the U.S. Constitution and the Virgin Islands Code. They were deprived of that opportunity."

The suit calls for a temporary restraining order against Ms. Fawkes and the Board of Elections. See suit documents [here](#) and [here](#).

Mr. Nelson's improbable bid [had apparently ended](#) when the senator announced a day before the deadline to file, that he could not find a running mate. "Friends, family, Virgin Islands territory, I'm not going to tell you that what I'm about to say is easy; it's not. It's not because I feel like I'm the people's chance for good government. I feel like I'm the most prepared and qualified... And unfortunately at this time, about 3:06 p.m. on Monday, May 7, I don't have somebody that I can tell you is my running mate," he said.

The following day -- [on May 8](#) -- the senator's countenance at the Elections System's office was uplifted. Mr. Udhwani had joined the team and Mr. Nelson was praising God for the last-minute turn of fortunes. "Sometimes when you get in that tight spot and you lean and God, God shows up. I serve a just-in-time God," he proclaimed.

The Election System and the Board of Elections have until June 14 to respond to the suit, according to Ms. Fenster. During the Board of Elections meeting held on Tuesday, which was called in part to discuss Mr. Nelson's candidacy, Ms. Fenster made known the suit to board members. At first, some were willing to discuss the issue, however they ultimately decided against doing so because of the suit.