

The Virgin Islands Consortium

Judges Brady, Mackay Advance At Reappointment Hearing; Brady Comes Under Fire For Handling Of Union Case, Long Court Docket

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Governor Albert Bryan's reappointment of Judges Kathleen Mackay and Douglas Brady to continue their service in the territory's Superior Court garnered enough support to be voted favorably out of the Committee on Rules and Judiciary during a hearing on Wednesday. But it was not all smooth sailing, especially for Judge Brady, who serves in the Superior Court on St. Croix.

Judge Brady was criticized in testimony that represented a group retirees who are members of the Seafarers International Union (SIU). The testimony said Judge Brady

had disregarded an override achieved by the 26th Legislature that appropriated \$900,000 to be paid to the SIU retirees, following a suit brought against the government.

"When that order was submitted to the Hon. Judge Douglas Brady to close this matter, to the dismay of the retirees, Judge Brady disregarded Presiding Judge [Darryl] Donohue's order and did not honor the 26th legislatures' appropriation settling the matter," the SIU testimony said.

The matter was brought to the attention of Senator Kenneth Gittens during his time in the 31st Legislature, according to the testimony, and for a second time the Senate -- during the 31st Legislature -- unanimously overrode a veto to pass Act No. 7804, appropriating money to pay the former government workers and affirmed Judge Donohue's order.

Even so, the testimony said, Judge Brady failed to act.

"In the face of the 26th and 31st legislatures' endorsements and appropriations for the former dedicated government workers and Presiding Judge Donohue's findings, Hon. Judge Brady has continuously ignored the legislatures of the Virgin Islands, denied all efforts of the retirees to secure the appropriations, thereby unreasonably delaying this matter," read the testimony.

Mr. Gittens, who was not a member of the 32nd Legislature but was elected in November and is now Senate president in the 33rd, did not take kindly to Judge Brady's apparent delay of the matter. The senator also criticized the judge in regards to another problem that has plagued the local courts: long court dockets that have kept 80 criminal cases unresolved. He said the Legislature passed measures that cleared the path for Magistrate judges to help with the workload. However, Mr. Gittens, added, some judges were still moving slowly on the cases. Mr. Gittens also lamented the cost to the government, which he estimated to be in the millions annually.



Judge Kathleen Mackay (Credit: Barry Leerdam, VI Legislature)

For his part, Judge Brady said when the Supreme Court of the Virgin Islands was created by the Senate 12 years ago, the local judicial branch's relations with the federal courts became the same as with every state, including final review decisions of the USVI's Supreme Court by the Supreme Court of the United States. Judge Brady lauded the current standing, but said the workload of the Superior Court increased as a result, while the resources to handle the new capacity was not. Because of this, he said, dockets have become overburdened which resulted in case delays. Even so, he acknowledged during his testimony that the Senate's measure allowing Magistrate judges to help with cases, has been effective, and he pointed to a soon-to-be-implemented electronic filing system that he believes will greatly improve the process.

Senators also heard testimony in support of Judge Brady's reappointment.

"While Judge Brady's application of legal analysis is not always favorable to my own argument, Judge Brady's ability to perceive and comprehend new legal developments both nationwide and locally is critical given the fluidity of the body of law of the Virgin Islands and the new Court rules applicable to practice before the Superior Court," read testimony from Attorney Chivonne A.S. Thomas.

"Since becoming a Judge in 2012, he has been a hard working and diligent Judge, keeping his docket moving. He has also presided over several high profile cases, including political matters such as Bryan v. Fawkes, major commercial cases, and a challenging criminal docket, which always demands priority attention," read testimony from Attorney Henry C. Smock.

Voting in support of Judge Brady's reappointment were Senators Steven Payne, Novelle Francis, Myron Jackson and Stedman Hodge. Senators Gittens and Alicia Barnes voted no.

Judge Mackay's reappointment received favorable nods from Senators Barnes, Jackson, Gittens and Francis. Senators Dwayne DeGraff and Hodge were absent.

Their nominations were forwarded to the full body for final consideration.

Feature Image: Judge Douglas Brady, courtesy Barry Leerdam, VI Legislature