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Supreme Court Dashes Governor's Hopes in WAPA Board Restructuring Dispute

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Janeka Simon **April 11, 2023**

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Governor Albert Bryan, Jr.

Governor Albert Bryan Jr.'s [ongoing legal battle](#) attempting to quash the Legislature's efforts to change the composition of the Water and Power Authority's governing board is unlikely to succeed on appeal.

That's the assessment of the USVI Supreme Court, as it declined to stay the law under dispute while an appeal is prepared and heard.

In early March, a Superior Court judge ruled that Act 8472, which removed all but one cabinet-level appointee from WAPA's board, and imposed qualification requirements for the now-diminished numbers of board members, was a [valid and legal](#) exercise of the Legislature's

authority.

Such changes to WAPA's governance structure, said Judge Renee Gumbs Carty, were in keeping with the Senate's authority to "amend, alter, modify, or repeal any local law or ordinance...and to enact new laws not inconsistent with any laws of the United States applicable to the Virgin Islands." Judge Carty opined that because the utility was created by the Legislature through legislation, WAPA fell under the jurisdiction of the Legislature. The most recent change to the agency's board came in 1978, after senators at the time passed a law to that effect – Act 4108.

Judge Carty rubbished claims by the governor that Act 8472 was an unconstitutional overreach and violated the separation of powers doctrine. Now, the Supreme Court has also thrown cold water on Government House's arguments. "We conclude that the likelihood that the Executive Branch will succeed in obtaining a reversal of the March 8, 2023, opinion and order are low."

The executive branch also failed to demonstrate that the implementation of Act 8742 is causing them or other parties substantial or irreparable injury, the other grounds that must be successfully argued for a stay to be imposed. Following Judge Carty's decision, the WAPA board re-organized itself to come into compliance with the new legislation and has held at least one board meeting in its new configuration.

After the executive branch's defeat in the lower courts, former Senator Janelle Sauraw, who sponsored the legislation during her time in the 34th Legislature, assailed Governor Bryan for what she said was the administration's use of taxpayer money to fight legislative efforts to bring accountability and good governance to the financially struggling utility company.

"WAPA is a very technical entity and those who sit on the board should be equipped with the skills to make sound decisions. Instead, what we saw was a board filled with political cronies and cabinet members," Ms. Sarauw told the Consortium. "The law changes that....I'm disappointed that the governor used the judicial system to delay forward progress."

The current court battle is the final effort by Governor Bryan to stop the law, after his veto in 2021 was overridden by the Legislature.