

**SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**ST. CROIX GOVERNMENT
RETIREES, INC.,
Petitioner,**

v.

**CAROLINE FAWKES, SUPERVISOR
OF ELECTIONS, IN HER OFFICIAL
CAPACITY,
Respondent.**

CIVIL NO. 2018- 380



**TRO TO BAR 2018 GENERAL ELECTION'S EARLY VOTING PHASE
UNTIL SENATE ACTS ON SUPERVISOR OF ELECTIONS-CERTIFIED
VOTER'S INITIATIVE**

Petitioner, *pro se*, requests a TRO under V.I. R. Civ. P. 65 (b), to restrain the Supervisor of Elections from proceeding with the 2018 election's early voting phase featuring a ballot which by law is inchoate insofar legislative action due on or before October 30th will ultimately crystalize completeness of the ballot for this 2018 general election. Though the erstwhile Supervisor had otherwise affirmed a federal voting right by certifying the initiative as ballot-worthy, to the shock of Petitioner, she announced two business days ago that early voting shall commence without opportunity for those early voters to decide upon the proposal. Thus early voters, including proponents of the initiative, will effectively be disenfranchised as to the proposal until the legislature acts. (See, attached Affidavit of Petitioner's corporate representative.)

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Legislative ratification of the initiative—to reorganize same legislature—will moot this matter. However, fact 50 years ago starting with public criticism of the current legislature structure by then U.S. Attorney Almeric Leander Christian, plus a couple lawsuits thereabouts, chance of ratification is cosmically remote. Thus, organic law that the subject initiative must be *submitted to the voters* is at this moment being shrugged aside. The Supervisor's early voting ballot can fairly be described as an affront to the right of initiative granted to the people of the Virgin Islands by the United States of America.

Consequently, Petitioner has no option but to seek emergency relief from further irreparable harm at the hands of the Supervisor's desecration of the Revised Organic Act of 1954 § 12, to wit:: *(a) The people of the Virgin Islands shall have the rights of initiative ... as provided in subsection (b) the Supervisor of Elections ... shall forward to the legislature the certified proposal which must accept or reject the measure within 30 days. If approved, the initiative shall take effect in accordance with its terms. If the legislature does not approve, the initiative shall be submitted to the voters at the next general election, unless the legislature approves a special election for this purpose. The legislature may submit its own version of the initiative to the voters. Should both measures be approved by the voters, the measure receiving the higher number of votes shall prevail. The voters*

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shall have a clear alternative of rejecting either version or the entire proposition.

(Emphasis added.)

Because the total number of voters determines the "higher number of votes," under § 12(b) (6), early voters excluded from voting on the initiative will perforce amount to a "no vote" against the very petition they may have enabled to change the structure of the legislature. Simply put, 5,000 voters who caused first ever ballot-qualified initiative in this American territory as of today are being denied their full suffrage of a United States-granted right.

As for the five considerations warranting this extraordinary relief:

There is a substantial likelihood of *success on the merits* of the case, § 12 is unambiguous in its dictates. Petitioner faces a substantial threat of *irreparable harm*, it being the right to vote is being undermined, if the injunction is not granted, The Supervisor has already launched an incomplete ballot even though she suspended early voting in 2014 during pendency of litigation re qualification of a candidate without a burden to the general election. Thus the balance of harms weighs in favor of Petitioner, there is no other available remedy, and a TRO is would serve the public interest

Respectfully submitted
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