



The Honorable
Marvin A. Blyden
Majority Leader

Legislature of the Virgin Islands

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May 16, 2019

The Honorable Kenneth L. Gittens
Senator
33rd Legislature of the Virgin Islands
36-C Strand Street
St. Croix, VI 00820

Dear Senator Gittens:

I am in receipt of your correspondence, dated May 16, 2019, in which you state your desire, if I understand you correctly, to schedule a session to repeat the actions that were legally taken in Legislative Session on May 15, 2019 to reorganize the 33rd Legislature. Because your letter contains so many mis-statements that must be corrected for the record, I am compelled to do so point-by-point as follows prior to addressing your request:

1. Nothing that was done in re-organizing the Legislature violated the laws of the Virgin Islands, as interpreted time and time again by our courts, and I challenge you to provide a single provision of the V.I. Code or the Revised Organic Act of the Virgin Islands in the process. Additionally, the courts have made clear that the rules of the body are separate and distinct from the law, and that when it comes to the internal operations of the Legislature, no act of a majority of members will be scrutinized or interfered with by the courts except if a violation of law, not the rules, has occurred. I refer you to *Brown v. Hansen*, *Mapp v. Lawaetz*, and *Bryan v. Liburd* as the local cases which have firmly established this principle in the territory.
2. No rule or law was violated when Legislative Secretary Alicia Barnes reconvened the Second Session of the Legislature. Senator Barnes, as Secretary, was empowered by the Rules, as stated in Section 304, to act in the absence of the President and Vice-President, and she was clearly within her power to reconvene a Legislative Session that you had improperly adjourned.
3. The actions taken by the Legislature were entirely legal, and were properly documented and recorded by the Legislative Reporter on the floor. The only reason that the public was unable to view the proceedings of the reconvened session was because of your actions in ordering all central staff to absent themselves from the Legislative Chambers. I ask: What could the purpose of such an action have been other than to thwart the will of a majority of the members of the Senate and to prevent the Virgin Islands public from viewing the proceedings? In any case, there is no requirement—in our rules, the V.I. Code or the

The Honorable Kenneth L. Gittens
May 16, 2019
Page 2

Revised Organic Act—that Legislative Sessions must be televised. Further, pains were taken to not only have a Legislative Reporter present and recording. We also took video recordings of the proceedings, which will soon be made available to the public.

4. You state in your correspondence that you ordered employees back to their workstations yesterday afternoon. However, the facts contradict your statement. I, along with all other members and staff of the Legislature, received a copy of the email (copy enclosed), sent by the Executive Director's Office on May 15, 2019 at 2:07 p.m., containing your directive that ordered, "ALL Central Staff to *remain* (emphasis added) off of the Legislative Floor." These employees included the Public Affairs Division staff who broadcast and record the sessions. We have no record of you rescinding this directive.

Having corrected the record as it relates to the mis-statements in your correspondence, I now move to address your request for another session to effect the reorganization of the Legislature. First, there is no need to repeat an action that has already been legally taken. Second, as of yesterday afternoon, you ceased to be the Senate President and as such have no authority to use the title in your correspondence or to convene and preside over a Legislative Session unless, of course, you are able to generate a petition signed by a majority of Senators. As such, there is no scenario, other than your garnering such a petition, for the convening of a Session under your direction to carry out your request. As such, your request cannot be granted.

Thank you for your attention to this matter.

I remain,



Marvin A. Blyden
Majority Leader
33rd Legislature of the Virgin Islands

cc: *The Honorable Novelle E. Francis, Jr., President, 33rd Legislature of the Virgin Islands*
The Honorable Myron D. Jackson, Vice-President, 33rd Legislature of the Virgin Islands
Members, 33rd Legislature of the Virgin Islands
Chief Legal Counsel
Media