

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

ALICIA HANSEN

Plaintiff)

)

)

)

vs)

ST. CROIX BOARD OF ELECTIONS
ET. AL.,)

)

)

)

Defendant

CASE NO. SX-16-CV-0000553

ACTION FOR: INJUNCTIVE RELIEF

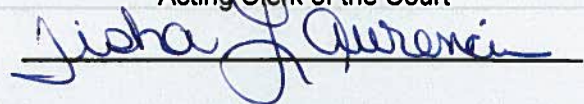
NOTICE OF ENTRY OF
ORDER

TO: LEE J. ROHN, ESQ.
ERIKA SCOTT, ESQ.
ROYETTE RUSSELL, ESQ.
JOSEPH PONTEEN, ESQ.
JUDGES AND MAGISTRATES OF THE SUPERIOR
COURT
LAW CLERKS OF THE SUPERIOR COURT
IT DIVISION
LAW LIBRARY AND RECORD BOOK

Please take notice that on September 16, 2016 a(n) ORDER dated
September 16, 2016 was entered by the Clerk in the above-entitled matter.

Dated: September 16, 2016

Estrella H. George
Acting Clerk of the Court



TISHA LAURENCIN-ORTIZ
COURT CLERK II

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

ALICIA "CHUCKY" HANSEN,

Plaintiff,

v.

ST. CROIX BOARD OF ELECTIONS,
JOINT BOARD OF ELECTIONS,
CAROLINE FAWKES, in her capacity as
Supervisor of Elections for the U.S.V.I.,
THE DEMOCRATIC PARTY OF THE
VIRGIN ISLANDS, and ADELBERT
(BERT) BRYAN,

Defendants

CIVIL CASE NO.: SX-16-CV-553

**ACTION FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF.**

ORDER

THIS MATTER came on for Hearing on September 14, 2016, on Plaintiff Alicia "Chucky" Hansen's Emergency Motion for Preliminary Injunction, filed September 9, 2016. At the outset of the Hearing, Plaintiff moved to voluntarily dismiss her complaint against Defendant Adelbert Bryan. The Court granted Plaintiff's oral motion.

Also before the Court is Defendant Democratic Party of the Virgin Islands' Motion to Dismiss for Failure to State a Claim (Motion), filed September 15, 2016. To date, Plaintiff has filed no response. As Defendant's Motion correctly argues: "Plaintiff does not seek any direct relief from or against the Democratic Party nor does she allege that the party's interests are somehow affected by her status as a registered voter or candidate for office. In other words, there is no justiciable controversy between Plaintiff and the Democratic Party." Thus, because Plaintiff's action for declaratory judgment and injunctive relief seeks no declaration as to the status of rights between Plaintiff and the Democratic Party, and does not seek to enjoin the Democratic Party from taking any particular action, Plaintiff has failed to state a claim against Defendant Democratic Party of the Virgin Islands upon which any relief may be granted. Accordingly, pursuant to Fed. R. Civ. P. 12(b)(6), applicable pursuant to Super. Ct. R. 7, Plaintiff's claims against the Democratic Party of the Virgin Islands will be dismissed. The premises having been considered, it is hereby

ORDERED that Plaintiff's Complaint against Defendant Adelbert (Bert) Bryan is DISMISSED. It is further

ORDERED that Defendant Democratic Party of the Virgin Islands' Motion to Dismiss for Failure to State a Claim is GRANTED, and Plaintiff's claims against the Democratic Party of the Virgin Islands are DISMISSED. It is further

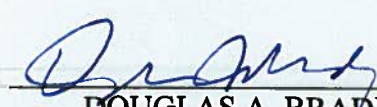
ORDERED that the caption of this matter will be amended to reflect this Order.

DATED: September 16, 2016

ATTEST: ESTRELLA GEORGE
Acting Clerk of the Court

By:


Court Clerk Supervisor


DOUGLAS A. BRADY, JUDGE

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

ALICIA "CHUCKY" HANSEN,	)	
	)	
Plaintiff,	)	CIVIL NO. SX-16-CV-553
v.	)	
	)	
ST. CROIX BOARD OF ELECTIONS,	)	
JOINT BOARD OF ELECTIONS,	)	
CAROLINE FAWKES, in her capacity as	)	ACTION FOR
Supervisor of Elections for the U.S.V.I.,	)	DECLARATORY JUDGMENT
	)	AND INJUNCTIVE RELIEF
Defendants.	)	
	)	

MEMORANDUM OPINION

THIS MATTER came on for hearing on September 14, 2016, on Plaintiff Alicia "Chucky" Hansen's Emergency Motion for Preliminary Injunction (Motion), filed September 9, 2016.¹ Before beginning the hearing on the Motion, the Court, without objection, advanced the trial on the merits of Plaintiff's Complaint seeking injunctive relief, and consolidated it with the hearing pursuant to Fed. R. Civ. P. 65(a)(2). Because the Court finds that Plaintiff was properly registered to vote in the Virgin Islands, and was therefore a qualified elector within the meaning of Title 18 Virgin Islands Code, the St. Croix Board of Elections (Board)'s² removal of Plaintiff's name from the 2016 general election ballot violated several provisions of Title 18 Virgin Islands Code and the Revised Organic Act of 1954. Accordingly, the Court will enter Judgment in favor of Plaintiff permanently enjoining the Board from removing Hansen as a candidate for public office on the 2016 general election ballot on the basis of claimed deficiencies in her voter registration pursuant to the provisions of 18 V.I.C. §§ 100(c)(1)-(2).

¹ Plaintiff appeared personally at trial and was represented by attorneys Lee Rohn and Rhea Lawrence. Defendants St. Croix Board of Elections, Joint Board of Elections, and Caroline Fawkes, in her official capacity as Supervisor of Elections, were represented by Assistant Attorneys General Erica Scott and Royette Russell.

² For purposes of this Memorandum Opinion, the two Defendants—The Joint Board of Elections and the District Board of Election of St. Croix—are discussed together for simplicity as there is no meaningful distinction in Plaintiffs' allegations or prayer for relief as to each Defendant.

Background

On September 7, 2016, Plaintiff filed her Complaint alleging that her name was improperly removed from the ballot for the 2016 general election as a result of a procedurally deficient challenge to her qualifications to run for the office of Senator. Complaint, at ¶¶ 35-44. Plaintiff alleged that on May 13, 2016, she timely filed the necessary papers to run for Senate under the name Alicia “Chucky” Hansen, and that receiving no challenges to her petition, her candidacy for Senator was certified on May 24, 2016. *Id.* at ¶¶ 34-35. Plaintiff further asserted that on August 23, 2016, long after the five day period within which to challenge nomination papers pursuant to 18 V.I.C. § 412 had expired, the Democratic Party of the Virgin Islands filed a challenge to Plaintiff’s candidacy, “claiming that it was concerned about the ‘integrity of the electoral process’ and request[ing] a determination of her qualifications under 18 V.I.C. § 411(b),” although no petition under § 412 was filed with the Superior Court. *Id.* at ¶¶ 37-38. Plaintiff alleged that upon conducting the review of her qualifications pursuant to § 411(b), the Supervisor of Elections—Defendant Caroline Fawkes—found that Plaintiff met all requirements established by law to run for the office of Senator. *Id.* at 39. Finally, the Complaint alleged that without notification to Plaintiff, the Board met on August 31, 2016 “ostensibly to rule on the Democratic Party’s out of time 411(b) challenge,” and passed a motion “to override the Supervisor of Elections’ decision to certify Plaintiff’s nomination and to certify her place on the ballot and to remove her from the ballot.” *Id.* at 43.

Findings of Fact

At trial Plaintiff testified that from the time she was a baby she was known as Alicia Hansen. Having been raised by her adopted parents Leon and Viola Hansen, having registered in school as Alicia Hansen, and having obtained both her Social Security Card and her driver’s license

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under the name Alicia Hansen, Plaintiff testified that it was only later in life that she became aware that her adopted parents were not her biological parents and that her birth certificate had, in fact, been issued in the name of Alden Alicia Pickering.³ Plaintiff stated that at the time she first registered to vote in the Virgin Islands in 1972, she presented her birth certificate showing her birth name⁴ as well as her Social Security Card issued in the name of Alicia Hansen. Plaintiff testified that when asked what name she went by, she stated that she had been known as Alicia Hansen all her life, and that based upon this representation and the identification presented, her Virgin Islands voter registration card was issued in the name of Alicia Hansen.⁵

Plaintiff's testimony established that, in 1976 she married Esdel Hansen from a separate Hansen family and that accordingly, her marriage license constitutes conclusive evidence that her legal surname, from at least that point forward, was Hansen.⁶ Additionally, Plaintiff testified that in 2008, upon returning to the voter registration office to update her registration, she was re-registered to vote, once again in the name of Alicia Hansen. Plaintiff also testified that in 2013, she was issued a United States Passport in the name of Alicia Hansen,⁷ having submitted her birth certificate and marriage license as identification. Plaintiff further testified that she has, at various times since 1986, run for office and served as Senator of the Virgin Islands under the name Alicia Hansen. Finally, both Plaintiff and Supervisor of Elections Caroline Fawkes testified that after Plaintiff timely filed the necessary papers to run for Senate under the name Alicia "Chucky"

³ Certain examples of Plaintiff's elementary and high school records were admitted as Trial Exhibits 9, 9a, 9b, 9c, and 28. A copy of Plaintiff's Social Security Card was admitted as Trial Exhibit 10 and Plaintiff's Government of Puerto Rico Certificate of Birth was admitted as Trial Exhibit 8.

⁴ Plaintiff testified that she only presented her birth certificate in order to establish that she was, in fact, a citizen of the United States and not for the purpose of identifying her by name.

⁵ See Trial Exhibits 5 and 7.

⁶ See Trial Exhibit 12.

⁷ See Trial Exhibit 14.

Hansen in the 2016 general election, and receiving no challenges to her petition, her candidacy for Senator was certified by the Supervisor of Elections.⁸

Chairperson of the Board, Liliana Belardo de O'Neale (O'Neale), testified that upon being presented with the Affidavit of Challenge filed by the Democratic Party of the Virgin Islands,⁹ a meeting of the Board was called to review Plaintiff's status as a qualified voter and candidate for office. O'Neale further testified that based upon the "inconsistencies" between the name appearing on Plaintiff's birth certificate—Alden Alicia Pickering—and the name under which Plaintiff was registered to vote—Alicia Hansen—the Board voted to remove Plaintiff's name from the 2016 general election ballot¹⁰ and refer the matter to the Attorney General for further investigation.¹¹ O'Neale testified that the decision to remove Plaintiff from the ballot was made solely on the basis of the allegations presented in the Affidavit of Challenge without any review, discussion, or consideration of relevant provisions of the Virgin Islands Code. Supervisor of Elections, Caroline Fawkes, testified that in light of the Board's decision, Defendant Fawkes sent a letter to Plaintiff informing her that she had been removed as a candidate from the ballot.¹²

Legal Standard

Although the Supreme Court of the Virgin Islands has not yet established a definitive list of factors to be considered in issuing a permanent injunction, in *V.I. Taxi Ass'n v. V.I. Port Auth.*, the Superior Court conducted an extensive *Banks* analysis on this issue, synthesizing relevant precedent from the Supreme Court of the Virgin Islands, the Supreme Court of the United States,

⁸ See Trial Exhibit 1.

⁹ See Trial Exhibit 4.

¹⁰ See Trial Exhibit 31

¹¹ Plaintiff was removed from the working draft of the 2016 general election ballot as the ballot was not yet finalized. The Board voted unanimously not to forward the St. Croix ballot for printing. See Trial Exhibit 33.

¹² See Trial Exhibit 2.

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and many states. 2016 V.I. LEXIS 69 at *7-24 (V.I. Super. June 8, 2016). The Court finds the analysis in *V.I. Taxi Ass'n*, persuasive and adopts the standard for evaluating claims for permanent injunction articulated therein. Under this four factor test, in deciding whether to grant or deny a permanent injunction the Court must consider: 1) whether the moving party has demonstrated actual success on the merits; 2) whether the moving party has suffered or will suffer irreparable harm in the absence of an injunction; 3) whether potential remedies at law, if any, are inadequate; and 4) whether issuance of the injunction would serve the public interest. *Id.* at *19.

In granting a permanent injunction, the Court must state the terms of the injunction specifically, and “describe in reasonable detail the act or acts restrained.” *Caribbean Healthways, Inc. v. James*, 55 V.I. 691, 699-700 (V.I. 2011). An injunction may not be broader than necessary to restrain the unlawful conduct, and must be narrowly tailored to fit the particular circumstances of the case.” *Id.* As is the case in considering motions for preliminary injunction—wherein the most important factor is the likelihood of success on the merits—in the context of permanent injunctions the most important factor for consideration is whether the party has demonstrated actual success on the merits. *See Tip Top Constr. Corp. v. Gov't of the V.I.*, 2014 V.I. Supreme LEXIS 15 *2 (V.I. February 14, 2014) (unpublished) (explaining that in determining whether to grant a preliminary injunction, ordinarily the most important factor will be likelihood of success on the merits).

In the context of preliminary injunctions, the Supreme Court has adopted a “sliding-scale” test, in which no one factor of the four factor test is dispositive, and the Court is instead required to evaluate all factors together and determine if, on balance, issuance of a preliminary injunction is warranted. *3RC & Co. v. Boynes Trucking Sys.*, 63 V.I. 544, 553 (V.I. 2015). It is unclear to

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what extent a pure "sliding-scale" approach would be appropriate in the permanent injunction context, as logically a failure to actually succeed on the merits of the underlying claim supporting the injunction would end the inquiry and necessitate the denial of the request for a permanent injunction. However, as the Court finds that in this case Plaintiffs have satisfied all four factors including success on the merits, the Court need not reach this issue.

Discussion

Although Plaintiff's Motion presents several theories under which she contends that the Board acted illegally in removing her name from the 2016 general election ballot, the most fundamental challenge presented is Plaintiff's argument that the Board's action was based upon an impermissible reading of 18 V.I.C. § 100(c) requiring an applicant for voter registration to provide her "surname" and "Christian name or names" for inclusion on her voter registration card. Because the Court rests its decision in this matter solely upon the interpretation of relevant provisions of the Virgin Islands Code, Plaintiff's constitutional law claims for violation of her rights to due process, equal protection, and freedom of association under the First Amendment need not be addressed.¹³

Actual Success on the Merits

Section 6(b) of the Revised Organic Act of 1954 (ROA) states that "no person shall be eligible to be a member of the legislature... who is not a qualified voter in the Virgin Islands." 48

¹³ Additionally, in both her Motion and at Trial, Plaintiff argued that the challenge to her candidacy was procedurally defective from the outset because the Democratic Party of the Virgin Islands was not authorized to institute such a challenge under 18 V.I.C. § 101(a) as claimed in the Affidavit of Challenge, or under any other provision of Title 18. However, in *Haynes v. Ottley*, the Supreme Court of the Virgin Islands held that the Superior Court may entertain a direct challenge to a candidate's qualifications to run for office pursuant to 4 V.I.C. § 76, regardless of whether the party bringing the challenge has complied with any procedural requirements for such challenges otherwise established in Title 18. *See* 61 V.I. 547, 575-76 (V.I. 2014).

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U.S.C.A. § 1572(b).¹⁴ Additionally, § 4(a) of the ROA provides that "[t]he franchise shall be vested in residents of the Virgin Islands who are citizens of the United States, twenty-one years of age or over," and that "[a]dditional qualifications may be prescribed by the legislature..." 48 U.S.C.A. 1542(a).

In turn, Title 18 Virgin Islands Code defines "qualified elector or voter" as "*any person who meets every qualification for voting now or hereafter prescribed by the laws of the Virgin Islands or applicable to the Virgin Islands, or who, being otherwise qualified by continuing residence in his election district, will meet such qualifications before the next ensuing elections.*" 18 V.I.C. § 1 (emphasis added). Section 261 further clarifies that "[e]xcept as provided in this chapter, every resident of the Virgin Islands, who is a citizen of the United States and is 18 years of age or over, has the right to franchise, and shall be entitled to vote at all elections *if he or she has complied with the provisions of this title requiring and regulating the registration of its electors.*" 18 V.I.C. § 261 (emphasis added). Thus, the ROA establishes that in order to be eligible to run for the office of Senator, an individual must be a "qualified voter," which in turn, as defined by Title 18 Virgin Islands Code, requires that the individual comply with those provisions of Title 18 regulating the registration of electors.

The requirements for voter registration in the Virgin Islands are found in Title 18 Virgin Islands Code § 100, which states that when registering, prospective voters must provide their

¹⁴ "No person shall be eligible to be a member of the legislature who is not a citizen of the United States, who has not attained the age of twenty-one years, who is not a qualified voter in the Virgin Islands, who has not been a bona fide resident of the Virgin Islands for at least three years next preceding the date of his election, or who has been convicted of a felony or of a crime involving moral turpitude and has not received a pardon restoring his civil rights. Federal employees and persons employed in the legislative, executive or judicial branches of the government of the Virgin Islands shall not be eligible for membership in the legislature."

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"surname" and "Christian name or names." 18 V.I.C. § 100(c).¹⁵ However, no definitions are provided for the terms "surname" and "Christian name" in the text of Title 18; nor for that matter, are these terms defined anywhere in the Virgin Islands Code. Thus, the resolution of this matter turns on the proper interpretation of the terms "surname" and "Christian name or names," and in particular, whether Plaintiff's voter registration in the name of Alicia Hansen satisfies the requirement that she provide her surname and Christian name within the meaning of 18 V.I.C. §100(c).

In *Bryan v. Fawkes*, the Superior Court was presented with a somewhat similar question regarding the interpretation of the term "name" in the context of the Title 18. 2014 V.I. LEXIS 44 (V.I. Super. Ct. 2014). Specifically, the Court rejected the argument that those sections of Title 18

¹⁵ (a) Every person claiming the right to be registered as an elector shall appear in person at the office of the Board, or at such other place or places as the Board shall have designated, shall present valid proof of United States citizenship and shall answer the questions required to be asked in accordance with this chapter. A voter may deliver to the Board of Elections or the registrar at the time of his registration a written statement of religious scruples against voting at a polling place located in premises used for religious purposes. In the event the polling place for any such voter's election district shall be located in premises used for religious purposes, the Board of Elections shall be authorized to reassign said voter to another polling place.

(b) He shall first be sworn or affirmed to the truth of the statements which he is about to make, and informed that any willful false statement will constitute perjury and will be punishable as such. He then shall be asked to state the facts required herein, and his answers, together with other information herein required, shall be recorded in his presence by a registrar if the registration is made pursuant to subsection (a) of section 94 of this title, or by a board member or the clerk in the presence of a board member if the registration is made pursuant to subsection (b) of section 94 of this title, in permanent writing or typewriting, in duplicate in the proper spaces on the registration cards as follows:

(c) (1) The surname of the applicant; (2) his Christian name or names; (3) his occupation; (4) the street or road and number, if any, of his residence; (5) if his residence is a portion only of the house, the location or number of the room or rooms, apartment, flat or floor which he occupies; (6) the date his residence in the district began; (7) the sex of the applicant; (8) his height, in feet and inches; (9) the color of his hair; (10) the color of his eyes; (11) the date of his birth; (12) the state or territory of the United States, or foreign country, where he was born; (13) the date when, place where, and the court by which, naturalized, and number of the naturalization certificate, or that he acquired citizenship by treaty or Act of Congress; (14) if not naturalized personally, the name of father, mother, or husband through whom naturalized; (15) the designation of the political party of the elector, if he desires to vote at primaries; and (16) the affidavit of registration, which shall be signed by the elector, attested by the signature of a board member or the clerk and dated by him. Each registration card shall also have a sufficient number of spaces thereon for the insertion of: (17) the election district and polling district in which the elector resides and to which he may from time to time remove, together with his street address in each such district, and the other data required to be given upon such removal; (18) the date of each election and primary at which the elector votes; and (19) the signature or initials of the election officer who enters the record of voting on the card.

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providing for a candidate to be identified on the electoral ballot by his or her "name" mandated the use of a candidate's legal name, thereby prohibiting the inclusion of a candidate's nickname on the ballot. *Id.* at *17. As the Court noted in that case, "[p]erhaps the most fundamental principle of statutory construction is that words in a statute must be given their ordinary meaning whenever possible." *Id.* at *8 (citing *Okeke v. Gonzales*, 407 F.3d 585, 593 (3d Cir. 2005)). Additionally, the Virgin Islands Code itself directs that terms or phrases not otherwise defined within the Code "shall be read with their context and shall be construed according to the common and approved usage of the English language." 1 V.I.C. § 42.

Black's Law Dictionary defines "surname" as "[t]he family name automatically bestowed at birth, acquired by marriage, or adopted by choice." 1120 (9th ed. 2009). Additionally, "Christian name" or "personal name" is defined as "[a]n individual's name or names given at birth as distinguished from a family name." *Id.* By contrast, a "legal name" is defined as "[a] person's full name as recognized in law." *Id.* at 1119. Furthermore, "[a] legal name is usually acquired at birth or through a court order." *Id.* As noted by the Court in *Bryan v. Fawkes*, the fact that the Legislature has variously used the terms "name," "surname," and "Christian name," in different sections of Title 18 indicates an awareness of the difference in the meaning and common usage of these terms, and evinces an intent to choose specifically from among them the term deemed most appropriate for use in the context of any given provision of Virgin Islands electoral law. *See* 2014 V.I. LEXIS 44, at *10-15.

Therefore, the Court finds that in selecting the terms "surname" and "Christian name" for use in 18 V.I.C. 100(c) the Legislature intended to incorporate those terms as they are ordinarily understood and used, as distinguished from the term "legal name," which bears a separate and distinct meaning both in law and ordinary usage; and accordingly the Court adopts the definitions

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of these terms outlined above.

In this case, the evidence presented at trial establishes that Plaintiff registered to vote in the Virgin Islands in 1972 under the name Alicia Hansen; the only name by which she has been known her entire life and the same name that appears on her school records, Social Security Card, driver’s license, marriage license, and United States Passport. Defendant Board admitted, through the testimony of Chairperson Liliana Belardo de O’Neale that the Board, without consulting, discussing, or referencing any particular provision of the Virgin Islands Code, removed Plaintiff from the electoral ballot based solely on the fact that her birth certificate was issued in the name of Alden Alicia Pickering rather than Alicia Hansen.

As Plaintiff argued at trial however, 18 V.I.C. § 100(c) does not require that a voter be registered under the name she acquired at birth, or her “legal name,” but only requires that a registrant provide her “surname” and “Christian name or names.” As to Plaintiff’s surname—the family name automatically bestowed at birth, acquired by marriage, or adopted by choice—even if the Court were to find that Plaintiff’s surname was, in the eyes of the law, still Pickering at the time she first registered to vote in 1972, her surname undeniably became Hansen when she married Esdel Hansen in 1976.¹⁶ Additionally, even if the Court were to determine that any deficiency in Plaintiff’s voter registration was not automatically cured upon her marriage, it was undoubtedly cured when Plaintiff re-registered to vote in 2008 presenting her marriage license for identification.

As to Plaintiff’s Christian name—an individual’s name or names given at birth as distinguished from a family name—18 V.I.C. § 100(c) requires that applicants seeking to register to vote present their “Christian name or names.” Notably, both the language of the statute and the

¹⁶ See 16 V.I.C. § 61 (“The wife shall bear the surname of her husband”).

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Black's Law definition of the term "Christian name" itself contemplate the possibility of an individual possessing one or more Christian names. However, the disjunctive statutory language, "Christian name or names," is arguably susceptible to at least two different interpretations. Under the first, narrower interpretation, one might read the statute as requiring that a registrant provide her Christian name should she have only one, or Christian names should she have more than one. Alternatively the statute may be more broadly interpreted as requiring that a registrant provide at least one Christian name, while allowing an applicant to provide more than one Christian name if she so desires.

In the absence of any duly promulgated rule or regulation from the Board which might clarify this ambiguity, and in the absence of any clear indication of legislative intent, the Court must resolve the issue based on traditional canons of statutory interpretation; in particular, the plain meaning and ordinary use of the disjunctive term "or." *See, e.g., Bryan v. Fawkes*, 2014 V.I. LEXIS 44, at *8 (citing *Okeke v. Gonzales*, 407 F.3d 585, 593 (3d Cir. 2005)). As it is ordinarily used and interpreted in statutory law, the disjunctive term "or" signifies the presentation of alternative conditions, such that the establishment of any one condition is sufficient to satisfy the statutory requirement in question. Therefore in accordance with the ordinary meaning and usage of the term "or", the statutory requirement presented in 18 V.I.C. § 100(c)(2), that a registrant provide his or her "Christian name *or* names" may be satisfied by providing either one Christian name *or* multiple Christian names. Had the Legislature intended to require a registrant to provide any and all Christian names he or she may possess, there are myriad ways in which such a requirement might conceivably have been expressed in unequivocal terms. However, in the absence of any clear expression of such an intent, the Court concludes that 18 V.I.C. § 100(c)(2) requires only that a registrant provide at least one Christian name; that is to say at least one name

given to him or her at birth, as distinguished from a family name.

In this instance, Plaintiff’s birth certificate establishes that she was given two Christian names at birth: Alden and Alicia. In 1972, Plaintiff registered to vote under the name Alicia Hansen. In so doing so, Plaintiff provided one Christian name, Alicia, while electing to omit another Christian name, Alden; a name by which Plaintiff testified that she had never been known and has never used to this day. Accordingly, because Plaintiff registered under at least one of her Christian names, the Court concludes that Plaintiff’s voter registration fully complied with the requirements of 18 V.I.C. § 100(c)(2).

Thus, because the Court finds that Plaintiff’s voter registration has been in full compliance with the requirements of 18 V.I.C. § 100 (c)(2)—requiring a registrant to provide his or her Christian name or names—since her initial registration in 1972, and because the Court finds that Plaintiff’s voter registration has been in full compliance with the requirements of 18 V.I.C. § 100(c)(1)—requiring a registrant to provide his or her surname—since at least 2008, the Court, in turn, concludes that the Board’s removal of Plaintiff Alicia Hansen’s name from the 2016 general election ballot based on her alleged failure to comply with these provisions of Title 18 was improper and contrary to Virgin Islands law. Therefore, the Court concludes that Plaintiff has demonstrated actual success on the merits of her claim that that her name was improperly removed from the ballot for the 2016 general election as a result of a deficient challenge to her qualifications to run for the office of Senator.

Irreparable Harm

The Supreme Court of the Virgin Islands has defined irreparable harm as, “certain and imminent harm for which a monetary award does not adequately compensate.” *Yusuf v. Hamed*, 59 V.I. 841, 854 (V.I. 2013). As Plaintiff argues in her Motion, it is self-evident that Plaintiff

would suffer irreparable harm should the Court decline to grant her injunctive relief. As with any dispute concerning an individuals' right to run for public office, there is no monetary award that could adequately compensate Plaintiff if the Board is allowed to unlawfully remove her name from the 2016 general election ballot. *See, e.g. Anderson v. Celebrezze*, 460 U.S. 780, 787 (1983) ("[t]he impact of candidate eligibility requirements on voters implicates basic constitutional rights" including the First Amendment right to freedom of association); *and Elrod v. Burns*, 427 U.S. 347, 373 (1976) (noting that the deprivation of First Amendment rights "for even minimal periods of time, unquestionably constitutes irreparable injury").¹⁷ Plaintiff is wrongfully disqualified as a candidate for office based upon an improper disqualification of her status as a registered voter, Plaintiff would not only be deprived of the opportunity to be elected to office, but would also be deprived of the opportunity to vote in the 2016 election. Additionally, in the absence of injunctive relief, the voters of St. Croix would be irreparably harmed as they would be deprived of the opportunity to exercise their right to vote Plaintiff into office.¹⁸

Inadequacy of Remedies at Law

Because of the nature of the harm Plaintiff would suffer, no monetary award or other remedy at law could adequately redress Plaintiff's injuries. The type of qualitative damage suffered as a result of the denial of the right to participate in the electoral process and to run for office cannot be quantified in monetary terms. Such a deprivation of the electorate's right to vote for any qualified candidate of their choosing would harm both Plaintiff and the Virgin Islands electorate

¹⁷ Although the Court does not base its decision in this case on Plaintiff's arguments under the First Amendment, the principle that any deprivation of Plaintiff's right to vote constitutes irreparable harm is equally applicable in either context.

¹⁸ It does not matter that the voters may not, in fact, elect Plaintiff to office. It is the deprivation of the *opportunity* to make this choice that is, by itself, detrimental.

as a whole in ways that could not be compensated by an award of damages or any other remedy at law.

Public Interest

There can be little doubt that the public interest is best served by the issuance of an injunction upholding the rights of a qualified citizen of the Virgin Islands to run for public office and to vote for the candidate of his or her choice. For the same reasons that Plaintiff would suffer irreparable harm, so too would the public interest be detrimentally disserved were the Court to deny the request for injunctive relief as the voting population of the Virgin Islands as a whole would be deprived of the opportunity to vote for a qualified candidate, who voters may or may not determine to be the best choice to represent their interests in the Legislature, and consequently, in the governance of the Virgin Islands. Thus, the Court concludes that granting Plaintiff's prayer for injunctive relief prohibiting the Board from removing Plaintiff's name from the 2016 general election ballot based upon a failure to comply with 18 V.I.C. §§ 100(c)(1)-(2) serves the public interest.

Conclusion

Because the Court finds that 18 V.I.C. §§ 100(c)(1)-(2) requires only that a registrant provide his or her surname and Christian name in accordance with definitions of those terms adopted herein, and because the Court finds that Plaintiff's voter registration has been in full compliance with those requirements since at least 2008, the Court concludes that Plaintiff has demonstrated actual success on the merits of her claim that Defendant St. Croix Board of Elections unlawfully removed her name from the 2016 general election ballot. Additionally, the Court finds that both Plaintiff and the electorate of the Virgin Islands would suffer irreparable harm if Defendants St. Croix Board of Elections, Joint Board of Elections, and Caroline Fawkes in her

MEMORANDUM OPINION

Alicia "Chucky" Hansen v. St. Croix Bd. Of Elections, et al.; SX-16-CV-553

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official capacity as Supervisor of Elections are not enjoined from implementing the decision to remove Plaintiff from the 2016 general election ballot based upon a failure to comply with 18 V.I.C. §§ 100(c)(1)-(2), and that in this light the issuance of a permanent injunction best serves the public interest. An appropriate Judgment Order shall enter herewith.

September 16, 2016



DOUGLAS A. BRADY
Judge of the Superior Court

ATTEST:
ESTRELLA GEORGE
Acting Clerk of the Court

By:


Court Clerk Supervisor *II*

9/10/16

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

ALICIA "CHUCKY" HANSEN,

Plaintiff,

v.

ST. CROIX BOARD OF ELECTIONS,
JOINT BOARD OF ELECTIONS,
CAROLINE FAWKES, in her capacity as
Supervisor of Elections for the U.S.V.I.,

Defendants

CIVIL CASE NO.: SX-16-CV-553

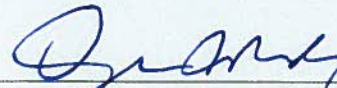
**ACTION FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF.**

JUDGMENT ORDER

THIS MATTER came on for Hearing on September 14, 2016, on Plaintiff Alicia "Chucky" Hansen's Emergency Motion for Preliminary Injunction (Motion), filed September 9, 2016. The Court advanced the trial on the merits of Plaintiff's Complaint seeking injunctive relief, and consolidated it with the Hearing pursuant to Fed. R. Civ. P. 65(a)(2). In consideration of the trial evidence, for the reasons set forth in the accompanying Memorandum Opinion entered herewith, it is hereby

ORDERED that Defendants St. Croix Board of Elections, Joint Board of Elections, and Supervisor of Elections Caroline Fawkes are ENJOINED from excluding Plaintiff Alicia Hansen from the ballot for the 2016 general election on the basis of noncompliance with 18 V.I.C. §§ 100(c)(1)-(2) requiring that a registrant provide his or her "surname" and "Christian name or names," and Defendants shall FORTHWITH take necessary steps to reinstate Plaintiff's name to the ballot for the 2016 general election.

DATED: September 16, 2016



DOUGLAS A. BRADY, JUDGE

ATTEST:

ESTRELLA GEORGE
Acting Clerk of the Court

By: 

Court Clerk Supervisor

9/16/16