

## A Suit by Unsuccessful Candidates to Overturn an Election

*Picard Samuel v. Virgin Islands Joint Board of Elections*  
(*Curtis V. Gómez and Raymond L. Finch,*  
*D.V.I. 3:12-cv-94*)

Five unsuccessful candidates for office in the November 6, 2012, general election filed a pro se federal complaint in the District of the Virgin Islands on December 11 to nullify the election results and enjoin the swearing in of the victors because of various alleged election irregularities.<sup>1</sup> An amended complaint filed on December 21 included an application for a temporary restraining order.<sup>2</sup> On December 28, Judge Curtis V. Gómez denied the plaintiffs immediate relief.<sup>3</sup>

On January 2, the plaintiffs sought Judge Gómez’s recusal on the grounds that his denying them relief was in error and his sister was a winner in the election.<sup>4</sup> On January 2, however, Judge Gómez reassigned the case to Judge Raymond L. Finch to enable prompt consideration of the pending motion for a preliminary injunction.<sup>5</sup>

Following a January 4 hearing, Judge Finch denied the plaintiffs a preliminary injunction on January 6.<sup>6</sup> Judge Finch determined that he lacked jurisdiction to enjoin the swearing in of election victors, because welcoming new members of a legislature is a matter for the legislative branch of government, not the judicial.<sup>7</sup> As for overturning the election results, the plaintiffs did not show that they would have been elected in the absence of the alleged election irregularities.<sup>8</sup> Moreover, Judge Finch was averse to rewarding the plaintiffs’ waiting until after the election to file their suit over matters that began to arise before the election.<sup>9</sup>

On January 7, Judge Gómez ruled that the recusal issue was moot and questioned the validity of the ground pertaining to his sister, who prevailed in a race that included none of the plaintiffs.<sup>10</sup> More importantly, because the plaintiffs

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1. Complaint, [Picard Samuel v. V.I. Joint Bd. of Elections](#), No. 3:12-cv-94 (D.V.I. Dec. 11, 2012), D.E. 1.

2. Amended Complaint, *id.* (Dec. 21, 2012), D.E. 33.

3. Amended Order, *id.* (Jan. 2, 2013), D.E. 69 (correcting a typographical error); Order, *id.* (Dec. 28, 2012), D.E. 51.

4. Motion, *id.* (Jan. 2, 2013), D.E. 68.

5. Docket Sheet, *id.* (Dec. 11, 2012) (D.E. 70); Recusal Opinion at 2–3, *id.* (Jan. 7, 2013), D.E. 80, [2013 WL 68633](#).

6. Preliminary Injunction Denial Opinion, *id.* (Jan. 6, 2013), D.E. 76, [2013 WL 106686](#); Opinion, *id.* (Feb. 1, 2013), D.E. 87, [2013 WL 398666](#) (denying reconsideration); Order, *id.* (Feb. 4, 2013), D.E. 88 (denying as moot a motion to stay proceedings pending resolution of the motion for reconsideration).

7. Preliminary Injunction Denial Opinion, *supra* note 6, at 9–10.

8. *Id.* at 17.

9. *Id.* at 18–19.

10. Recusal Opinion, *supra* note 5, at 7–8.

were not entitled to injunctive relief with respect to the election, there was no valid ground for recusal with respect to the judge's sister.<sup>11</sup>

On March 7, Judge Finch dismissed the complaint for lack of standing; the plaintiffs' speculative claims of election irregularities did not show any injuries different from the general public's.<sup>12</sup> An appeal was dismissed for failure to prosecute.<sup>13</sup>

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11. *Id.* at 6–7.

12. Opinion at 9–11, [Picard Samuel v. V.I. Joint Bd. of Elections](#), No. 3:12-cv-94 (D.V.I. Mar. 7, 2013), D.E. 92, [2013 WL 842946](#).

13. [Order](#), [Picard Samuel v. V.I. Joint Bd. of Elections](#), No. 13-2007 (3d Cir. Sept. 13, 2013).