

SUPREME COURT, STATE OF COLORADO

Court Address:

2 East 14th Avenue

Denver, Colorado 80203

ORIGINAL PROCEEDING PURSUANT TO

§ 1-40-107(2), C.R.S. (2005)

Appeal from the Ballot Title Setting Board

Petitioners:

BENNETT S. AISENBERG and FEDERICO C. ALVAREZ, Objectors,

v.

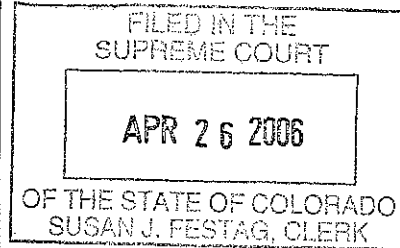
Respondents:

JOHN K. ANDREWS, JR. and KATHLEEN A. LeCRONE, Proponents,

and

Title Board:

WILLIAM A. HOBBS, JASON DUNN, and DAN CARTIN



▲ COURT USE ONLY ▲

Attorneys for Petitioners:

Mark G. Grueskin, #14621

Daniel C. Stiles, #35695

Isaacson Rosenbaum P.C.

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Case No.:

06SA131

**PETITION FOR REVIEW OF FINAL ACTION OF
BALLOT TITLE SETTING BOARD
CONCERNING PROPOSED INITIATIVE 2005-2006 #90
("TERM LIMITS ON COURT OF APPEALS
AND SUPREME COURT JUDGES")**

Bennett S. Aisenberg and Federico C. Alvarez ("Petitioners"), being registered electors of the State of Colorado, through their undersigned counsel, respectfully petition this Court pursuant to § 1-40-107(2), C.R.S. (2005), to review the actions of the Ballot Title Setting Board with respect to the setting of the title, ballot title, and submission clause for proposed Initiative 2005-2006 #90 ("Term Limits on Court of Appeals and Supreme Court Judges").

I. Actions of the Ballot Title Setting Board

The Title Board conducted its initial public meeting and set titles for proposed Initiative 2005-2006 #90 on April 5, 2006. The Petitioners filed a Motion for Rehearing pursuant to § 1-40-107(1), C.R.S. (2005), on April 12, 2006. The Motion for Rehearing was heard at the next regularly scheduled meeting of the Title Board on April 19, 2006. At the rehearing, the Board granted in part and denied in part Petitioners' Motion. Petitioners hereby seek review of the final action of the Title Board with regard to proposed Initiative 2005-2006 #90 pursuant to § 1-40-107(2), C.R.S. (2005).

II. Issues Presented

- I. Is the phrase "term limits" in the ballot title's introductory clause a catch phrase that renders the ballot title unfair or misleading, given its use as a

slogan in contemporary political debate to provoke voter emotion and encourage prejudice in favor of the issue?

II. Did the Title Board err by failing to state in the ballot title the meaning of a "provisional term?"

III. Supporting Documentation


As required by § 1-40-107(2), C.R.S. (2005), a certified copy of the Petition, with the titles and submission clause of the proposed constitutional amendment, together with a certified copy of the Motion for Rehearing and the rulings thereon, are submitted herewith.

IV. Relief Requested

Petitioners respectfully request this Court to reverse the actions of the Title Board with directions to decline to set a title and to return the proposed Initiative to the proponents.

Respectfully submitted this 26th day of April, 2006.

ISAACSON ROSENBAUM P.C.

By: 
Mark G. Grueskin, #14621
Daniel C. Stiles, #35695

ATTORNEYS FOR PETITIONERS

Addresses of Petitioners:

Bennett S. Aisenberg
310 Cook St.
Denver, Colorado 80206

Federico C. Alvarez
2315 Clermont St.
Denver, Colorado 80207

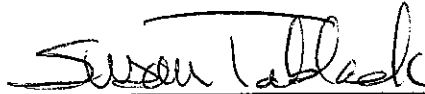
CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of April, 2006, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2005-2006 #90 ("TERM LIMITS ON COURT OF APPEALS AND SUPREME COURT JUDGES")** was placed in the United States mail, postage prepaid, to the following:

Kathleen A. LeCrone
4371 S. Fundy Street
Centennial, Colorado 80015

John K. Andrews, Jr.
7156 S. Verbena Way
Centennial, Colorado 80112

Maurice G. Knaizer, Esq.
Deputy Attorney General
Colorado Department of Law
1525 Sherman Street, 5th Floor
Denver, Colorado 80203





STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **GINETTE DENNIS**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2005-2006 #90".

..... **IN TESTIMONY WHEREOF** I have unto set my hand and affixed the Great Seal of the State of Colorado, at the City of Denver this 25th day of April, 2006.

Ginette Dennis

SECRETARY OF STATE

Final #90

PROPOSED CONSTITUTIONAL AMENDMENT FOR 2006 BALLOT
INITIATIVE NO. 90

PROPOSERS
John K. Andrews, Jr.
7156 S. Verbena Way
Centennial CO 80112
720 489 7700
andrewsjk@aol.com
Registered voter, Arapahoe County

RECEIVED

MAR 09 2006
ELECTIONS/LICENSING
SECRETARY OF STATE

C. G. 1:24 P.M. via email JWM

Kathleen A. LeCrone
4371 S. Fundy St.
Centennial CO 80015
Registered voter, Arapahoe County

FINAL REVISION PER LEGISLATIVE STAFF REVIEW 3/9/06

Be it Enacted by the People of the State of Colorado:

Section 1. Article VI of the constitution of the state of Colorado is amended by the addition of a new section to read:

(continued)

Initiative No. 90
Continued, Page 2

Section 27. Terms of office and term limits. EFFECTIVE JANUARY 1, 2007, TERMS OF OFFICE FOR APPEALS COURT JUDGES AND SUPREME COURT JUSTICES SHALL BE FOUR YEARS. INCUMBENTS AS OF THAT DATE SHALL STAND FOR RETENTION AT THE NEXT GENERAL ELECTION, IF ELIGIBLE FOR ANOTHER TERM AT THAT LEVEL. AT EACH APPELLATE COURT LEVEL, NO ONE SHALL SERVE MORE THAN THREE TERMS OF OFFICE. A PROVISIONAL TERM SHALL BE A TERM OF OFFICE. ANYONE WHO HAS SERVED TEN YEARS OR MORE AT ONE APPELLATE COURT LEVEL SHALL BE NOT ELIGIBLE FOR ANOTHER TERM AT THAT LEVEL.

Section 2. Repeal. Section 7 of Article VI of the constitution of the state of Colorado is repealed as follows:

Section 7. Term of office. ~~The full term of office of justices of the Supreme Court shall be ten years.~~

COLORADO TITLE SETTING BOARD

In re Title and Ballot Title and Submission Clause Set For Initiative 2005-06 #90

MOTION FOR REHEARING

On behalf of Bennett S. Aisenberg and Federico C. Alvarez, registered electors of the State of Colorado, the undersigned hereby moves for a rehearing of the title, ballot title and summary for Initiative 2005-06 #90, set at the Title Board hearing held on April 5, 2006.

A. As a preliminary matter, the Petitioners urge the Board to make a technical correction to the text of the measure to reflect the Proponents' intent by deleting the following words that appear within the text distributed at the April 4 Board hearing:

(continued)

Initiative No. 90
Continued, Page 2

B. The Petitioners also allege that the title set by the Board is misleading, inaccurate, or incomplete for the following reasons.

1. "Term limits" in the introductory clause of the ballot title is a political slogan, calculated to persuade voters to sign petitions and support the ballot measure.
2. The ballot title fails to define "provisional term of office."
3. The ballot title fails to state that this measure changes term lengths for justices of the Supreme Court by repealing Art. VI, sec. 7.
4. The ballot title fails to state that the terms of currently sitting judges and justices are shortened from their current durations to four years.

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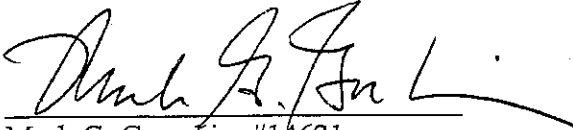
APR 12 2006

ELECTIONS / LICENSING
SECRETARY OF STATE

CH
4.05 pm

Respectfully submitted this 12th day of April, 2006.

ISAACSON ROSENBAUM P.C.



Mark G. Grueskin, #14621
Edward T. Ramey, #7648
633 17th Street, Suite 2200
Denver, CO 80202
Phone: 303-292-5656
Fax: 303-292-3152

Addresses of Objectors:

Bennett S. Aisenberg
310 Cook St.
Denver, CO 80206

Federico C. Alvarez
2315 Clermont St.
Denver, CO 80207

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2006, a true and correct copy of the foregoing **MOTION FOR REHEARING** was placed in the United States mail, postage prepaid, to the following:

Kathleen A. LeCrone
4371 S. Fundy St.
Centennial, CO 80015

John K. Andrews, Jr.
7156 S. Verbena Way
Centennial, CO 80112



Ballot Title Setting Board

Proposed Initiative 2005-2006 #90¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution concerning term limits for appellate court judges, and, in connection therewith, reducing the terms of office for justices of the supreme court and judges of the court of appeals to four years, requiring appellate judges serving as of January 1, 2007, to stand for retention at the next general election, if eligible for another term, prohibiting an appellate judge from serving more than three terms, specifying that a provisional term constitutes a full term, and making any appellate judge who has served ten or more years at one court level ineligible for another term at that level.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution concerning term limits for appellate court judges, and, in connection therewith, reducing the terms of office for justices of the supreme court and judges of the court of appeals to four years, requiring appellate judges serving as of January 1, 2007, to stand for retention at the next general election, if eligible for another term, prohibiting an appellate judge from serving more than three terms, specifying that a provisional term constitutes a full term, and making any appellate judge who has served ten or more years at one court level ineligible for another term at that level?

Hearing April 5, 2006:

Single subject approved; staff draft adopted; titles set.

Hearing adjourned 1:52 p.m.

Hearing April 19, 2006:

At request of proponent, technical corrections allowed in text of measure. (In section 1, removed all text after "read:" and before "Section 27."; in section 27, last sentence, changed "SHALL BE NOT ELIGIBLE" to "SHALL NOT BE ELIGIBLE".)

Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.

Hearing adjourned 3:16 p.m.

¹ Unofficially captioned "Term Limits on Court of Appeals and Supreme Court Judges" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.