

SUPREME COURT
STATE OF COLORADO

2 East 14th Avenue
Denver, CO 80203

Original Proceeding Pursuant to 1-40-107(2),
C.R.S. (2013)

Appeal from the Ballot Title Board.

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative 2013-
2014 # 68 (“Restrictions on Pet Animal
Euthanasia”)

Petitioner:
HOLLY TARRY,

v.

Respondents:
GEORGE BROWN and JULIET PICCONE,

Title Board:
SUZANNE STAIERT, DANIEL DOMENICO, and
JASON GELENDER

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Case No. 2014SA117

TITLE BOARD'S ANSWER BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

It contains 504 words.

The brief complies with C.A.R. 28(k).

It contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record (R. , p.), not to an entire document, where the issue was raised and ruled on.

/s/ Kathryn A. Starnella _____

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Suzanne Staiert, Daniel Domenico, and Jason Gelender, as members of the Ballot Title Setting Board (“Title Board”), hereby submit their Answer Brief. The Title Board’s opening brief anticipated most of the issues that Petitioner has raised in her opening brief. In the interest of brevity, those issues will not be discussed here.

I. The title and submission clause accurately describe the enforcement aspects of Initiative # 68.

A. The title appraises voters that euthanasia prohibition violations will result in monetary penalties.

In her Opening Brief, Petitioner contends that the title for Initiative # 68 fails to inform voters that the initiative includes a mandatory penalty and that “private enforcers of this statute get a mandatory ‘cut’ of the penalties assessed.” Pet. Opening Brief at 7.

As this Court has noted on multiple occasions, “the Board is not required to and . . . clearly cannot describe every feature of a proposed measure in the titles.” *In re Title, Ballot Title, Submission Clause, and Summary Pertaining to the Proposed Election Reform Amendment*, 852 P.2d 28, 33 (Colo. 1993). To the extent that titles must “include the

proposal's establishment of mandatory, nonsuspendable fines," *id.*, the title for # 68 readily complies. *See* Ballot Title (informing voters that the initiative "impos[es] a monetary penalty for each violation of the euthanasia prohibition"). Thus, unlike the ballot initiative that was challenged in *Election Reform Amendment*, and which entirely failed to inform voters that the initiative would impose fines for certain campaign contribution violations, # 68's title sufficiently informs voters that a euthanasia prohibition violation will result in monetary penalties.

B. The title need not inform voters that private citizens who prevail in a private action are entitled to 25% of the imposed civil penalty.

Petitioner also contends that the title to Initiative # 68 is deficient because it fails to inform voters that "private enforcers of this statute get a mandatory 'cut' of the penalties assessed." Pet. Opening Brief at 7.

The disclosure of a prevailing plaintiff's entitlement to twenty-five percent of the imposed civil penalty is not critical to ensuring voters'

understanding of the initiative’s meaning. Therefore, the absence of this detail does not invalidate the title. *See In re Title, Ballot Title & Submission Clause, and Summary for 1999-2000 # 255*, 4 P.3d 485, 497 (Colo. 2000) (noting that “[t]he titles and summary are intended to alert the electorate to the *salient* characteristics of the proposed measure”) (emphasis added). Moreover, the title sufficiently apprises voters that “*certain* fees and penalties collected,” as opposed to *all* fees and penalties collected, will be used “to make grants for programs and services to address pet overpopulation.” Ballot Title (emphasis added). Therefore, the title does not mislead voters into thinking that all generated fees and penalties will be used for programs and services to address pet overpopulation.

II. Conclusion

Based on the reasoning and authorities herein, as well as in the Title Board's opening brief, the Title Board respectfully requests that this Court affirm the title for Initiative # 68.

Respectfully submitted this 2nd day of June, 2014.

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CERTIFICATE OF SERVICE

This is to certify that, on June 2, 2014, I duly served this **TITLE BOARD'S ANSWER BRIEF** on all parties via ICCES or electronic mail, addressed as follows:

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