

SUPREME COURT, STATE OF COLORADO  
2 East 14<sup>th</sup> Ave., Denver, CO 80203

Original Proceeding Pursuant to § 1-40-107(2)  
C.R.S. (2015)  
Appeal from the Ballot Title Board

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**In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative  
2015-2016 #100**

**ANITA CAMERON, JULIE FARRAR**  
Petitioners,

v.

**LANCE WRIGHT, MERCEDES APONTE**  
Respondents,

**SUZANNE STAIERT, FREDERICK YARGER,  
AND JASON GELENDER**  
Title Board.

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Case Number:  
2016SA141

**REPLY BRIEF OF CAMERON & FARRAR IN SUPPORT OF  
PETITION FOR REVIEW OF PROPOSED INITIATIVE 2015-2016  
#100 (“MEDICAL AID IN DYING”)**

## 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) because it contains 1376 words. The Petition on Appeal complies with C.A.R. 32 because it is prepared using Roman style font 14 point size including footnotes.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

Dated this 26<sup>th</sup> day of May, 2015,

s/ Carrie Ann Lucas, #36620  
Attorney for Petitioners Cameron and Farrar

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## ISSUES PRESENTED FOR REVIEW

- A. The Proposed Initiative's reach is broad and unlimited.
- B. The titles fail to correctly and properly identify the true intent and meaning of the Initiative, which is to legalize voluntary euthanasia.

## SUMMARY OF ARGUMENT

The Proposed Initiative contains multiple, unrelated subjects having no necessary or proper connection to the Initiative's purported single subject of Medical Aid in Dying. In addition to legalizing euthanasia, the measure creates new inalienable rights that affect many Colorado statutes.

To the extent the Court finds that the Initiative includes only one subject, the Final Title is nevertheless confusing, misleading, and not reflective of the Proponents' intent and, therefore, must not be forwarded to the voters. The Final Title fails to reflect that the Proposed Initiative: fails to reflect that the measure creates new inalienable rights, or that the Proposed Initiative legalizes voluntary euthanasia.

## ARGUMENT

### I. The Proposed Initiative's reach is broad and unlimited.

As reflected in the final title, the Proposed Initiative's purported single subject is "An amendment to the Colorado constitution establishing a right to assistance from a medical professional to achieve death through a medical protocol." *See* Final Title. In addition to legalizing euthanasia, the measure also creates new unalienable rights that will affect many Colorado laws.

The Proposed Initiative creates a new class of citizen-sovereigns who have inalienable rights to euthanasia. Final Text ¶ 4. This new class of citizens, unheard of in the laws of Colorado, or any other state in the United States. Additionally, the Proposed Initiative creates new inalienable rights of "life, liberty, and pursuit of happiness."<sup>1</sup> *Final Text* § 28(a).

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<sup>1</sup> While these are rights expressed in the 1776 Declaration of Independence, the pursuit of happiness in particular, is not codified into the U.S. Constitution, or the Colorado Constitution as expressed by the Proposed Amendment. *Cf.* U.S. Const. amend. XIV, § 1; Colo. Const. art. II, § 3.

Contrary to the Proponents arguments, this Proposed Initiative is not about refusing medical treatment. The right to refuse medical treatment, even if it hastens death, has been settled by the U.S. Supreme Court. *Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 270, (1990) (“[T]he patient generally possesses the right not to consent, that is, to refuse treatment.”) *Vacco v. Quill*, 521 U.S. 793, 800-01, 117 S. Ct. (1997) (“However, this does not include the right to either assisted suicide, or euthanasia. we think the distinction between assisting suicide and withdrawing life-sustaining treatment, a distinction widely recognized and endorsed in the medical profession and in our legal traditions, is both important and logical.”) In short, contrary to the Proponents arguments, people do not have the right to euthanasia, or assisted suicide.

The measure is so sloppily written that the plain language of the measure itself does not restrict it only to the measure. Even if Proponents arguments were correct, the definitions of the measure are only restricted to the measure, no limiting language exists for any portion of the Proposed Initiative other than the first section 6. That

there is a second, broader section six that then applies those definitions to unrestricted legislation creates a broad affect far beyond the textual bounds.

**II. The titles fail to correctly and properly identify the true intent and meaning of the Initiative, which is to legalize voluntary euthanasia.**

Dictionary usage is particularly important in textual analysis. As the Court has noted, “[i]n determining the meaning of constitutional or statutory phrases or words, we may look to **dictionary definitions.**”

*Cerbo v. Protect Colo. Jobs, Inc.*, 240 P.3d 495, 501 n.4 (Colo. App. 2010). Likewise, dictionaries can be used to guide language selection, to ensure that that the language used in a ballot title is clear and unambiguous.

The term “euthanasia” is commonly known and understood by the general public. The American Medical Association (AMA) defines euthanasia as occurring when “the administration of a lethal agent by another person to a patient for the purpose of relieving the patient’s



intolerable and incurable suffering.” The AMA Code of Medical Ethics, Opinion 2.21, Euthanasia, June, 1991. [http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion221.page?](http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion221.page) (last accessed May 12, 2016). *See also Black’s Law Dictionary* 575 (7th ed. 1999) (euthanasia is “The act or practice of killing or bringing about the death of a person who suffers from an incurable disease or condition, esp. a painful one, for reasons of mercy.”) Additionally, voluntary euthanasia is further defined as “Euthanasia performed with the terminally ill person’s consent.” *Black’s Law Dictionary* 575 (7th ed. 1999). This is exactly what the measure legalizes. The measure legalizes “the application of... a medical protocol that is lethal.” Final Text ¶ 6(f). Proponents discuss the voluntariness of the decision. This could be reflected in the title by using the language voluntary euthanasia, which is far more accurate and not euphemistic. The language in the measure, and most importantly, the title is euphemistic and hides the purpose of the Proposed Initiative from the voters, which will cause voter surprise about the true effect of the initiative.

Therefore, Petitioners request that the Court remand the matter to the Title Board with the instructions to amend the Final Title consistent with the concerns set forth herein

### **CONCLUSION**

WHEREFORE, for the reasons set forth above, the Petitioners respectfully request that the Court find that the Initiative does not contain a single subject and remand this matter to the Title Board with direction to return the Initiative to Proponents. In the alternative, Petitioners request that the Court remand the matter to the Title Board with the instructions to amend the title consistent with the concerns set forth above.

### **CERTIFICATE OF WORD COUNT**

By my signature below, I certified that the number of words in the body of the final form of this petition as counted by Microsoft Office, is 1376.

Respectfully submitted this 26<sup>th</sup> day of May, 2016.

s/Carrie Ann Lucas

Carrie Ann Lucas, #36620

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## CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2016, a true and correct copy of the foregoing was served by the ICCES filing system, and addressed to:

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