

FILED IN THE
SUPREME COURT

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OF THE STATE OF COLORADO
Christopher T. Ryan, Clerk

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Colorado Supreme Court
2 East 14th Avenue
Denver, CO 80203

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

In the Matter of the Title, Ballot Title, and Submission
Clause for Proposed Initiative 2015-2016 #114 (Civil
Unions and Marriages)

Petitioner: D'Arcy Straub

v.

Respondents: Laura C. Reinsch

and

**Title Board: Suzanne Staiert, Frederick Yarger, and
Jason Gelande.**

Attorney for Petitioner:
None, petitioner is proceeding *pro se*.

D'Arcy Straub
6772 W. Ida Dr. #327
Littleton, CO 80123
303-794-4109

Supreme Court Case No:
2016SA150

PETITIONER'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 the applicable word limits set forth in C.A.R. 28(g).

X The entire document contains 1006 words, which does not exceed the limit of 5700 words imposed by C.A.R. 28(g) for a reply brief.

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.



D'Arcy Straub
Petitioner, pro se

TABLE OF AUTHORITIES

Cases

Obergefell v. Hodges, 135 S. Ct. 2584 (2015) 2, 3

SUMMARY OF THE ARGUMENT

The Title Board believes a second subject of the Proposed Initiative is the abolishing of legal rights currently associated with marriage. This conclusion is based upon an incorrect statutory analysis of the Proposed Initiative. The Proposed Initiative does not abolish legal rights, and therefore the Proposed Initiative possesses one subject.

ARGUMENT

I. The Title Board's Incorrect Statutory Construction of the Proposed Initiative Leads to an Erroneous Single-Subject Analysis

In their Opening Brief, the Title Board states, "The second subject of measure #114 would prospectively abolish the legal relationship of marriage and retroactively convert any existing marriage to a civil union." Opening Br. Title Bd. at 9. The problem with this conclusion is that the proposed initiative does not abolish the legal relationship of marriage, rather it changes the name of the legal relationship between couples – whether same-sex or opposite-sex – and calls it something else, namely a civil union. The conclusion reached by the Title Board is a consequence of ignoring § 14-16-104 of the Proposed Initiative, attached as

Exhibit A of Petitioner’s Opening Brief. This section of the proposed initiative states no legal rights associated with any current marriage are to be disturbed through enactment of the Proposed Initiative.

The Supreme Court stated in the *Obergefell*, “Under the Constitution, same-sex couples seek in marriage the *same legal treatment* as opposite-sex couples” *Obergefell v. Hodges*, 135 S. Ct. 2584, 2602 (2015) (emphasis added). The Proposed Initiative retains the *same legal treatment* for same-sex couples through § 14-16-104 of the Proposed Initiative. The insistence that somehow the legal rights associated with a civil or state-sponsored marriage would vanish because the word “marriage” is not used within the statutes and rules of a government to regulate the legal rights of couples is without merit.

Arguably an ulterior motive of many secularists is to disparage various religious beliefs by insisting that the government use the word “marriage” to define legal relationships between same-sex couples. After all, if the government endorses same-sex marriage, then any religious belief to the contrary must be held by people who are intolerant, to state it nicely, or bigoted, to state it vehemently as many guilty of religious intolerance would have it.¹ As noted in § 14-16-102(2) of

¹ A great deal of irony exists with the presence of intolerance in the same-

the Proposed Initiative, “marriage” is a word used within various religious authorities, such as the Bible, *see, e.g.*, 1 Timothy 5:14 (New International Version) (“So I counsel younger widows to marry, to have children, to manage their homes and to give the enemy no opportunity for slander”). Consequently the word “marriage” (or the implicit variation “marry”) implicates the personal religious beliefs of many citizens, and to respect the various religious beliefs of the citizenry, the Proposed Initiative aims to effectuate the different use of language to define the equal rights of same-sex and opposite-sex couples.

The Title Board identifies the abolishing of legal rights as a second subject of the Proposed Initiative. Because this is an incorrect statutory construction of sex marriage issue. Prior to *Obergefell*, the government did not legally recognize the rights of same-sex couples, and through the government’s lead many people in society felt justified in their hatred of members in the LGBT community. After *Obergefell*, the government recognizes the rights of same-sex couples, but now many people in society feel justified in their hatred of those who hold contrary religious views on marriage. *Obergefell* will not eliminate intolerance, but rather serve as the basis to discover a different side of intolerance. The law can be a very powerful influence on society.

the Proposed Initiative, the identification of a second subject in the Proposed Initiative is similarly incorrect.

Respectfully submitted this 2nd day of June 2016.



D'Arcy Straub
6772 W. Ida Dr. #327
Littleton, CO 80123
303-794-4109

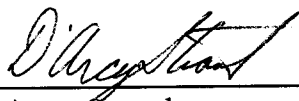
CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June 2016 a true and correct copy of the foregoing Petitioner's Answer Brief was served by hand delivery to the Title Board's Counsel and delivered to:

Lee Ann Morrill
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203
Attorney for the Title Board

Respondent Reinsch elected not to file any briefs in this action before the Court, and under the circumstances the parties agreed that electronic delivery of Petitioner's Answer Brief would suffice to satisfy service. Accordingly, I hereby certify that on this 2nd day of June 2016 a true and correct copy of the foregoing Petitioner's Answer Brief was served by e-mail to the Respondent's Reinsch's Counsel and delivered to:

Mark Grueskin
mark@rklawpc.com
Attorney for Respondent Reinsch



D'Arcy Straub