

SUPREME COURT, STATE OF COLORADO
2 East 14th Ave., 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 #124**

ROBIN STEPHENS, RENEE WALBERT
Petitioners,

MICHELLE STANFORD, Petitioner

v.

JAREN DUCKER, JULIE SELSBERG
Respondents,

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

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Case Number:
2016SA151

**REPLY BRIEF OF STEPHENS AND WALBERT IN SUPPORT OF
PETITION FOR REVIEW OF PROPOSED INITIATIVE 2015-2016
#145 (“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 1187 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 2nd day of June, 2015,

s/ Carrie Ann Lucas, #36620
Attorney for Petitioners Stephens and Walbert

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ISSUES PRESENTED FOR REVIEW

- A. The titles fail to correctly and properly identify the true intent and meaning of the Initiative, which is to promote physician-assisted suicide.
- B. The title fails to reflect that the measure requires death certificates to reflect a cause of death to be something other than suicide.

SUMMARY OF ARGUMENT

Despite the Proponents strenuous efforts to call physician-assisted suicide by another name, the fact remains, Initiative #124 legalizes physician-assisted suicide. To call it anything else is misleading.

The requirement that death certificates be changed to reflect a cause of death other than the actual cause is a central feature of the initiative, and to not reflect this in the title misleads the voters.

ARGUMENT

I. The titles fail to correctly and properly identify the true intent and meaning of the Initiative, which is to promote physician-assisted suicide.

As noted in Petitioners Walbert and Stephens' briefs, and Petitioner Stanford, the common definition of suicide is clear and unambiguous. *See Oxford Dictionary of English* (2nd ed. revised 2009) (suicide is "the act of killing oneself intentionally"); *Merriam-Webster's Collegiate Dictionary* 1249 (11th ed. 2014) (suicide is "the act or an instance of taking one's own life voluntarily and intentionally esp. by a person of years of discretion and of sound mind."); *Black's Law Dictionary* 1571 (9th ed. 2009) (suicide is "[t]he act of taking one's own life."). The act described in the proposed initiative in euphemistic and confusing language is suicide, and the voters are entitled to know that.

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. Changing the consequences for an action, such as this law does for suicide, does not change the definition of an act simply because it does not have all of its old consequences. Accordingly here, notwithstanding the Proponents attempts to avoid the use of the word “suicide,” suicide is the correct word to use to avoid misleading the voters.

Additionally, here, the technical definition used by physicians, the very people empowered to act under this proposed initiative, has defined the acts permitted under this proposed initiative as physician-assisted suicide. The American Medical Association (AMA) defines physician-assisted suicide as occurring when “a physician facilitates a patient’s death by providing the necessary means and/or information to enable the patient to perform the life-ending act.” The AMA Code of Medical Ethics, Opinion 2.211, Physician-Assisted Suicide, June, 1994. [http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion2211.page?](http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion2211.page) (last accessed May 10,

2016). Contrary to the Title Board's argument that the use of the term suicide, or physician-assisted suicide would be an impermissible catch phrase, the Title Board's language is so euphemistic that it misleads the voters about the intent and purpose of the Proposed Initiative. The use of common terms like suicide is not an impermissible catch phrase.

II. The title fails to reflect that the measure requires death certificates to reflect a cause of death to be something other than suicide.

Petitioners Walbert and Stephens join in the arguments made by Petitioner Stanford.

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, and in their Opening Brief, 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 1187.

Respectfully submitted this 2nd day of June, 2016.

s/Carrie Ann Lucas
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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2016, a true and correct copy of the foregoing was served by the ICCES filing system and addressed to:

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