

SUPREME COURT, STATE OF COLORADO
2 E. 14TH STREET, DENVER COLORADO 80203

SEP - 5 2019

IN THE MATTER OF PROPOSED INITIATIVE 2019-2020 #3
OF THE STATE OF COLORADO
Cheryl L. Stevens, Clerk
DATE FILED: September 5, 2019

DOUGLAS BRUCE, PETITIONER

Case No: 2019 SA183

V.

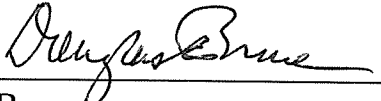
STATE TITLE-SETTING BOARD; STATE OF COLORADO; PROPONENTS CAROL
HEDGES AND STEVE BRIGGS, RESPONDENTS.

OPENING BRIEF

Douglas Bruce
Box 26018
Colorado Springs CO 80936
(719) 550-0010
taxcutter@msn.com

CERTIFICATE OF COMPLIANCE

Petitioner hereby certifies he has complied with applicable rules as to length of brief,
and the length of this Opening Brief is 1,065 words.

A handwritten signature in cursive script that reads "Douglas Bruce". The signature is written in black ink and is positioned above a horizontal line.

Douglas Bruce

TABLE OF CONTENTS

CERTIFICATE OF COMPLIANCE.....	2
TABLE OF CASES AND AUTHORITIES.....	3
SUMMARY OF THE CASE.....	3-4
SUMMARY OF THE ARGUMENT.....	4
ARGUMENT.....	5-7
CONCLUSION.....	7

TABLE OF CASES AND AUTHORITIES

Colo. Const. Article V section 1 (5.5).....	5
Colo. Const. Article X, section 20 (TABOR).....	passim
Colo. Revised Stats. 1-40-106.5.....	5
<u>Matter of Election Reform Amendment</u> , 852 P.2d. 28 (Co. 1993).....	5

SUMMARY OF THE CASE

Petitioner DOUGLAS BRUCE is a registered elector in the state of Colorado. He filed a timely motion for rehearing after the Title Board , by 2-to-1, set a ballot title for proposed initiative 2019-2020 #3 (“#3”). That rehearing was heard and denied by the Board on August 21, 2019, on a 2-to-1 vote. This petition for review is timely filed.

Petitioner asserts the ballot title set violated the standards of 1-40-107 (2) C.R.S.

It was unfair and incomplete and failed to inform petition signers and voters of the basic features of the measure. More than any other ballot title petitioner has seen in 33 years, it actively concealed the main principles of the proposed repeal of Article X section 20 of the Colorado Constitution, the official title of which is the Taxpayer's Bill of Rights ("TABOR") Amendment.

SUMMARY OF THE ARGUMENT

TABOR is the most controversial section of the state constitution, yet this draft title is the least informative description possible. Over one million adults have moved to Colorado in the 26 years since TABOR passed. It is a highly partisan and divisive issue. Not surprisingly, foes hope to slip its complete repeal past the voters. The constitution, statutes, case law, and basic decency prevent this court from endorsing such vile tactics to control tens of billions of dollars annually in public funds by knifing the right to vote.

This court has already reversed 23 years of precedent on the very issue of repealing TABOR in one ballot issue. That June 2019 ruling was itself divisive, a 5-to-2 decision.

Now proponents, once again, wish to trash the rule of law by ramming through a total repeal of TABOR. Two members of this court said such a green light would be akin to repealing Article II of the state constitution, a shorter Bill of Rights, on the grounds a repeal of all those rights could be called a single subject of repeal. The majority here decreed in a feat of judicial gymnastics that repeal of multiple subjects is now a single subject. So much for the settled precedent of 23 years; so much for the rule of law.

ARGUMENT

This petition does not seek to relitigate that error. Petitioner simply urges this court not to disgrace its image, nor to override another body of jurisprudence, the decades-old traditional view that the the purpose of the title board is to inform petition signers and voters in a neutral manner of the main principles and goals of a proposed measure. The Board is still reeling from the radical departure of this court in June that rewrote Article V section 1 (5.5) and its implementing statute, 1-40-106.5 C.R.S.

In its fawning but confused desire to please this court, the Board over-reacted. The issue before this court is not whether repealing multiple subjects is now, by fiat, a single subject. That has been decided for now, albeit erroneously. The only issue is whether an overt hatred of TABOR, manifested in a now unbroken string of adverse rulings over 26 years, where TABOR has been consistently crippled and rejected, will extend to all ballot issues, by strangling and aborting the previously-honored goal of an informed electorate.

Until this year, constitutional, statutory, and case law guidelines were clear. The goal of a ballot title is to describe the main features of a ballot measure in a way that informs citizens by neutral descriptions. Now this court is deciding to take sides by suppressing the main features to aid the Establishment. This court has an inherent conflict here, since TABOR affects this court's own pecuniary self-interest. All judges live off public taxes.

The annotated C.R.S. reports, "If a choice must be made between brevity and a fair description of essential features of a proposal, where a complex measure embracing

many different topics is involved and the titles and summary cannot be abbreviated by omitting references to the measure's salient features, the decision must be made in favor of full disclosure to the registered voters." Matter of Election Reform Amendment, 852 P.2d. 28 (Colo. 1993). Petitioner is personally familiar with this ruling, as he wrote the ERA. That opinion has been the principle of this court for longer than the 33 years the petitioner has experienced this court's opinions.

Petitioner requests this court rise above its temptation and clearly affirm the centuries-old principle essential to the democratic process, once enunciated by Thomas Jefferson. "If the people lack enough information to wield power correctly, don't take away their power, give them the information."

Petitioner filed a sample ballot title with the Board. It is attached. This court can add to it or take from it, but it cannot rightly ignore the gist of it. Voting is the most sacred, fundamental political right, to be strictly enforced; all American courts have stated that thousands of times. TABOR itself requires citizens to receive information prior to their vote. It penalizes governments that misstate financial data required by TABOR. TABOR enforces the maxim that the right to vote must be meaningful. A proposal that deprives citizens of their fundamental rights must be a clear, thoughtful, sober decision, strictly construed against the government. With government complicity, measure #3 is falsely portrayed as an innocuous housekeeping measure to tidy up obscure technicalities, of interest only to academics and the revisor of statutes. Repealing TABOR is at least as

Submitted,



Douglas Bruce
Box 26018
Colorado Springs CO 80936
(719) 550-0010
taxcutter@msn.com

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of this Petition for Review, first-class postage paid, on September 3, 2019, addressed to:

Attorney General Phil Weiser
1300 Broadway
Denver CO 80203

attorney for Title Board

Edward Ramey
225 E. 16th Avenue #350
Denver CO 80203
eramey@tierneylawrence.com

attorney for proponents

billbanta@msn.com

Petitioner



Douglas Bruce

TABOR REPEAL BALLOT TITLE

Shall there be an amendment to the Colorado Constitution concerning the complete repeal of the Taxpayer's Bill of Rights, and in connection therewith, ending the right to vote on new state and local taxes and tax rate increases, ending the right to vote on increasing residential tax assessments, ending the right to vote on state or local multi-year debt or other financial obligations, ending the right to vote on certain state and local spending increases and property tax revenue increases above the combined rates of inflation plus state population or local growth, ending the right to tax refunds of excess government spending and excess property tax revenue, ending the right to vote in November state elections in odd-numbered years, ending the requirement to keep state and local emergency reserves, ending the flat rate state income tax requirement, ending the ban on new or increased real property transfer taxes, ending the ban on local income taxes and state real property taxes, ending the power of local governments to reduce or end business personal property taxes, ending the limits on property assessment for tax valuation purposes, ending the ban on unfunded state mandates on certain local governments, and other changes?