



ORIGINAL

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
SEP - 6 2016

MICHAEL S. RICHIE  
CLERK

CHIP PAUL AND PHILIP WINTERS  
OKLAHOMANS FOR HEALTH,

Petitioners,

Vs

THE HONORABLE SCOTT PRUITT,  
ATTORNEY GENERAL OF OKLAHOMA,

Respondent.

#115322  
Case No. \_\_\_\_\_

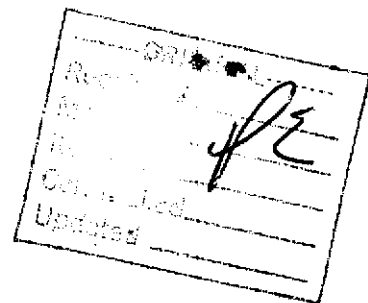
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PETITIONER'S APPLICATION TO ASSUME ORIGINAL JURISDICTION AND  
COMBINED PETITION TO REVIEW THE ABLLOT TITLE OF INITIATIVE  
PETITION 412

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ATTORNEY FOR PETITIONERS



**IN THE SUPREME COURT OF THE STATE OF OKLAHOMA**

IN RE: INITIATIVE PETITION NO. 412) No. \_\_\_\_\_  
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**BRIEF OF PETITIONER/PROPONENT REQUESTING REVIEW OF  
SUBSTITUTED BALLOT TITLE PREPARED BY THE ATTORNEY GENERAL  
IN CONNECTION WITH INITIATIVE PETITION 412**

This is a statutorily authorized appeal initiated pursuant to Title 34 O.S. 2015 § 9, whereby the petitioner seeks review and substitution of the corrected ballot titled proffered by the Oklahoma Attorney General on August 25, 2016, included and incorporated herein by reference.

**THE FACTS CONCERNING BACKGROUND AND HISTORY OF FILING**

This legal action is taken on behalf of two parties, Chip Paul, co-chairman for Oklahomans for Health and Philip Winters, one of the valid voter signatures to Initiative Petition Number 412. This is a measure which would amend Oklahoma law to wit: "This measure amends the Oklahoma State Statutes. A yes vote legalizes the licensed use, sale and growth of marijuana in Oklahoma for medicinal purposes and must be approved by an Oklahoma Board Certified Physician. The State Department of Health will issue medical marijuana licenses if the applicant is eighteen years or older and an Oklahoma resident. A special exception will be granted to an applicant under the age of eighteen, however these applications must be signed by two physicians and a parent or legal guardian. The Department will also issue seller, grower, packaging, transportation, research and caregiver licenses. Individual and retail businesses must meet minimal requirements to be licensed to sell marijuana to licensees. The punishment for unlicensed

possession of permitted amounts of marijuana for individuals who can state a medical condition is a fine not exceeding four hundred dollars. Fees and zoning restrictions are established. A seven percent state tax is imposed on medical marijuana sales.” (See **Exhibit A, attached hereto and incorporated herein by reference**) The measure is to be approved or rejected by the legal voters of the State of Oklahoma at the regular general election to be held on November 8, 2016 or a later date designated by the Governor of the State of Oklahoma.

Pursuant to the statutory requirements found in Title 34 O.S. § 9.D.1, the Oklahoma Secretary of State informed the Attorney General of the filing of the petition and submitted the same to him for review as to legal correctness. The Attorney General, “within five (5) business days after the filing of the measure and ballot title...shall notify the Secretary of State whether or not the proposed ballot title complies with applicable law” *Id.* He did so by notification dated August 18, 2016. (See **Exhibit B, attached hereto and incorporated herein by reference**) The Attorney General submitted a new ballot title on the proposed question to the Oklahoma Secretary of State on August 25, 2016. To wit:

“This measure legalizes the licensed use, sale and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same acceptable standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- Submits a valid application;
- Is eighteen years or older, and
- Is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$ 400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.”

(See Exhibit C, attached hereto and incorporated herein by reference)

#### **PETITIONER’S OBJECTION TO SUBSTITUTED BALLOT TITLE**

##### **1. THE PETITIONER’S ORIGINAL BALLOT TITLE DOES NOT RUN AFOUL OF OKLAHOMA LAW AND IS LEGALLY CORRECT**

The Attorney General is to review the petition “for review as to legal correctness under 34 O.S. § 9(D)1.

Petitioners believe the Initiative Petition and Ballot Title complied with the law. Title 34 § 9(B) clearly outlines the requirements for “the suggested ballot title”:

“ B. The parties submitting the measure shall also submit a suggested ballot title which shall be filed on a separate sheet of paper and shall not be deemed part of the petition. The suggested ballot title:

1. Shall not exceed two hundred (200) words;

2. Shall explain in basic words, which can be easily found in dictionaries of general usage, the effect of the proposition;
3. Shall be written on the eighth-grade reading comprehension level;
4. Shall not contain any words which have a special meaning for a particular profession or trade not commonly known to the citizens of this state;
5. Shall not reflect partiality in its composition or contain any argument for or against the measure;
6. Shall contain language which clearly states that a “yes” vote is a vote in favor of the proposition and a “no” vote is a vote against the proposition; and
7. Shall not contain language whereby a “yes” vote is in fact, a vote against the proposition and a “no” vote is, in fact, a vote in favor of the proposition.”

The proposed title submitted by the Petitioner complies with § 9(B).

**2. THE SUBSTITUTED BALLOT TITLE NEGATES THE INTENT OF THE ORIGINALLY FILED INITIATIVE PETITION**

The Attorney General proposed ballot title rewritten explains;

The measure would “legalize the licensed use, sale and growth of marijuana in Oklahoma.” Further, “There are no qualifying medical conditions identified”.

This language would mislead the voters and or make argument against or show partiality. Specifically, he would lead voters to believe they are either legalizing marijuana for general purposes and/or would confuse voters by his language used rather than the original language of marijuana for medical purposes. Specifically, “marijuana for medicinal purposes and must be approved by an Oklahoma Board certified Physician”.

The Attorney General’s proposed ballot title violates Title 34(B)(4) in that it “shall not reflect partiality”.

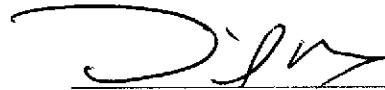
The Attorney General expresses his belief that "the measure does not change federal law, which make use, sale and growth of marijuana illegal".

Thus, would mislead voters and or make argument against or show partiality.

### **CONCLUSION**

Pursuant to Title 34 O.S. § 10.A, the Petitioner respectfully requests this Court to reject the Attorney General's amended ballot title in reference to Initiative Petition No. 412 and restore the Petitioner's ballot title in Exhibit A to the Petition.

Respectfully submitted,



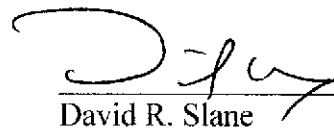
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Oklahoma City, OK 73107  
(405) 319-1800  
(405) 319-1802 Facsimile  
[davidrslane@hotmail.com](mailto:davidrslane@hotmail.com)  
ATTORNEY FOR PETITIONERS

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of September, 2016 a true and correct copy of the above and foregoing instrument was mailed postage prepaid to the following:

Scott Pruitt  
Oklahoma Attorney General  
313 NE 21<sup>st</sup> Street  
Oklahoma City, OK 73105

Oklahoma Secretary of State  
2300 N. Lincoln Blvd.  
Room 101  
Oklahoma City, OK 73105

A handwritten signature in black ink, appearing to read "D. Slane", is positioned above a horizontal line. The signature is fluid and cursive, with a large initial "D" and a stylized "Slane".

David R. Slane

**FILED**

APR 11 2016

OKLAHOMA SECRETARY  
OF STATE

**PROPOSED BALLOT TITLE**

This measure amends the Oklahoma State Statutes. A yes vote legalizes the licensed use, sale, and growth of marijuana in Oklahoma for medicinal purposes. A license is required for use and possession of marijuana for medicinal purposes and must be approved by an Oklahoma Board Certified Physician. The State Department of Health will issue medical marijuana licenses if the applicant is eighteen years or older and an Oklahoma resident. A special exception will be granted to an applicant under the age of eighteen, however these applications must be signed by two physicians and a parent or legal guardian. The Department will also issue seller, grower, packaging, transportation, research and caregiver licenses. Individual and retail businesses must meet minimal requirements to be licensed to sell marijuana to licensees. The punishment for unlicensed possession of permitted amounts of marijuana for individuals who can state a medical condition is a fine not exceeding four hundred dollars. Fees and zoning restrictions are established. A seven percent state tax is imposed on medical marijuana sales.

Shall the proposal be approved?

For the proposal	-	YES
Against the proposal	-	NO

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

EXH. A





OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

**FILED**

AUG 18 2016

OKLAHOMA SECRETARY  
OF STATE

August 18, 2016

Chris Benge, Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, Oklahoma 73105-4897

**RE: Ballot Title for State Question No. 788, Initiative Petition No. 412**

Dear Secretary Benge:

In accordance with the provisions of 34 O.S.Supp.2015, § 9(D)(1), we have reviewed the Proposed Ballot Title for the above-referenced State Question and conclude that it does not comply with applicable laws for the following reasons.

It fails to adequately explain the effect of the proposition because, as among other things:

- it does not explain that marijuana will be a non-prescription drug nor accurately explain the role of the physician;
- it does not sufficiently address zoning restrictions insofar as it fails to specify that a municipality's power to restrict or change zoning laws is limited; and
- it does not explain that the measure would not affect constitutionally-enacted federal law to the contrary.

Having found that the Proposed Ballot Title does not comply with applicable laws, we will, in accordance with the provisions of 34 O.S.Supp.2015, § 9(D)(1), within ten business days, prepare a ballot title which complies with the law and furnish a copy to you.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. Scott Pruitt  
Attorney General



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

**FILED**

August 25, 2016

AUG 25 2016

Chris Benge, Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, Oklahoma 73105-4897

OKLAHOMA SECRETARY  
OF STATE

RE: Ballot Title for State Question No. 788, Initiative Petition No. 412

Dear Secretary Benge:

Having found that the Proposed Ballot Title for the above-referenced State Question did not comply with applicable laws, we have, in accordance with 34 O.S.Supp.2015, § 9(D)(1), prepared the following Ballot Title. The Ballot Title reads as follows:

**BALLOT TITLE FOR STATE QUESTION NO. 788**

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license. The State Department of Health must issue a license to an applicant who:

- submits a valid application,
- is eighteen years or older, and
- is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and

caregiver licenses to those who meet certain minimal requirements. A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400.

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.

SHALL THE MEASURE BE APPROVED?

FOR THE MEASURE - YES

\_\_\_\_\_

AGAINST THE MEASURE - NO

\_\_\_\_\_

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a long horizontal flourish extending to the right.

E. Scott Pruitt  
Attorney General