

SUPREME COURT OF COLORADO

Cordero v. Leahy

328 P.3d 155 (Colo. 2014) · Decided June 30, 2014

SUMMARY

The Colorado Supreme Court reviewed Title Board decisions setting titles and ballot title and submission clauses for Initiatives 2013-2014 #90 and #98. The court held that both initiatives presented a single subject concerning expansion of local governments’ authority to regulate oil and gas development more restrictively than state law, and that the titles were clear and not misleading. The court affirmed the Title Board’s actions.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Marquez; Justice Hobbs; Chief Justice Rice
JURISDICTION	Colorado
DECIDED	June 30, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of the Colorado Title Board's actions setting titles and ballot title and submission clauses for proposed Initiatives 2013-2014 Nos. 90 and 93.
STANDARD OF REVIEW	The court employs all legitimate presumptions in favor of the propriety of the Title Board's actions, overturns a single-subject determination only in a clear case, and reverses a title only if it is insufficient, unfair, or misleading, including because of a material omission, misstatement, or misrepresentation.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Colorado; precedential.
PARTIES	Mizraim Cordero, Scott Prestridge v. Caitlin Leahy, Gregory Diamond, Title Board

TOPICS

- election law
- ballot access
- administrative law
- oil and gas
- constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether proposed Initiatives 2013-2014 Nos. 90 and 93 violated Colorado's constitutional and statutory single-subject requirement.
2. Whether the titles for the proposed initiatives were misleading because they omitted the initiatives' definition of oil and gas development or, for Initiative 93, omitted the word "prohibit."
3. Whether the Title Board's removal of the phrase "hydraulic fracturing" from Initiative 90's title rendered that title misleading.

HOLDINGS

1. Initiatives 2013-2014 Nos. 90 and 93 each contain a single subject: expanding local governments' authority to enact laws regulating oil and gas development that are more restrictive than state law.
2. The titles set by the Title Board for Initiatives 2013-2014 Nos. 90 and 93 satisfy the clear-title requirement because they fairly reflect the initiatives' purposes and are not misleading.
3. The plain language of the proposed initiatives does not limit their application to state-owned oil and gas resources; the phrase refers to resources located within Colorado's geographic boundaries.

KEY QUOTATIONS

"We hold that each of the Proposed Initiatives contain one subject—the expansion of local governments' authority to enact laws regulating oil and gas development that are more restrictive than state law." (328 P.3d at 157-58)

"We also hold that the titles set by the Title Board satisfy the clear title requirement because they are not misleading and they fairly reflect the purpose of the Proposed Initiatives." (328 P.3d at 158)

"We therefore affirm the actions of the Title Board." (328 P.3d at 165)

FACTUAL BACKGROUND

Caitlin Leahy and Gregory Diamond proposed alternative versions of a constitutional amendment concerning local governmental authority to regulate oil and gas development more restrictively than state law. Initiative 90 would authorize local governments to enact prohibitions or limits, while Initiative 93 would authorize limits; both initiatives addressed local regulation, conflicts with state law, and takings consequences. The Title Board set and later modified the titles, including removing references to hydraulic fracturing and, for Initiative 93, the phrase "prohibit or."

PROCEDURAL HISTORY

The proponents submitted the proposed initiatives to the Secretary of State. The Title Board set titles for both initiatives, then modified the titles after petitioners filed motions for rehearing. Petitioners sought review under section 1-40-107(2), C.R.S., challenging the initiatives under the single-subject requirement and asserting that

the titles were misleading. The proponents filed a cross-petition concerning removal of the phrase "hydraulic fracturing" from Initiative 90's title. The Colorado Supreme Court affirmed the Title Board's actions.

DISPOSITION

affirmed

CASES CITED

- In re Title, Ballot Title & Submission Clause for 2011-2012 No. 3, 2012 CO 25, 274 P.3d 562 (Colo. 2012)
- In re Title, Ballot Title & Submission Clause for 2009-2010 No. 45, 284 P.3d 642 (Colo. 2012)
- In re Title, Ballot Title & Submission Clause, & Summary Pertaining to Proposed Initiative on Parental Choice in Educ., 917 P.2d 292 (Colo. 1996)
- In re Title, Ballot Title & Submission Clause, & Summary for 1999-2000 No. 29, 972 P.2d 257 (Colo. 1999)
- In re Title, Ballot Title & Submission Clause for 2005-2006 No. 75, 188 P.3d 267 (Colo. 2008)
- In re Title, Ballot Title & Submission Clause for 2007-2008 No. 17, 172 P.3d 871 (Colo. 2007)
- People ex rel. Elder v. Sours, 31 Colo. 369, 74 P. 167 (1903)
- In re Title, Ballot Title & Submission Clause for Proposed Initiative "1996-17," 920 P.2d 798 (Colo. 1996) (per curiam)
- In re Title, Ballot Title & Submission Clause for 2009-2010 No. 24, 218 P.3d 350 (Colo. 2009)
- In re Title, Ballot Title & Submission Clause for 1997-1998 No. 112, 962 P.2d 255 (Colo. 1998) (per curiam)
- In re Title, Ballot Title & Submission Clause for 2007-2008 No. 62, 184 P.3d 52 (Colo. 2008)
- In re Title, Ballot Title & Submission Clause for 2011-2012 No. 45, 2012 CO 26, 274 P.3d 576 (Colo. 2012)
- In re Title, Ballot Title & Submission Clause for Proposed Initiative on Water Rights, 877 P.2d 321 (Colo. 1994)
- In re Proposed Initiated Constitutional Amendment Concerning Unsafe Workplace Env't, 830 P.2d 1031 (Colo. 1992)
- In re Title, Ballot Title & Submission Clause for 1999-2000 No. 25, 974 P.2d 458 (Colo. 1999)
- In re Proposed Initiated Constitutional Amendment Concerning Fair Fishing, 877 P.2d 1355 (Colo. 1994)
- In re Title, Ballot Title & Submission Clause & Summary for 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000)
- In re Title, Ballot Title & Submission Clause, & Summary for Petition on Campaign & Political Fin., 877 P.2d 811 (Colo. 1994)
- In re Title, Ballot Title & Submission Clause for 1997-98 No. 62, 961 P.2d 1077 (Colo. 1998)
- In re Title, Ballot Title & Submission Clause for Proposed Initiative on Educ. Tax Refund, 828 P.2d 1353 (Colo. 1991)