

SUPREME COURT OF OKLAHOMA

Oklahoma Council of Public Affairs v. Smalley

2019 OK 48 (Okla. 2019) · No. 117962 · Decided June 19, 2019

SUMMARY

The Oklahoma Supreme Court held that the gist of Initiative Petition 419, State Question 802, was sufficient and not misleading in describing a proposed Medicaid expansion using a 133% federal poverty-level threshold. The Court also denied the remaining constitutional challenges to the initiative petition.

OPINION

PER CURIAM.

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SMALLEY2019 OK 48Case Number: 117962Decided: 06/19/2019THE SUPREME COURT OF
THE STATE OF OKLAHOMA Cite as: 2019 OK 48, __ P.3d __ NOTICE: THIS OPINION HAS
NOT BEEN RELEASED FOR PUBLICATION.

UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. OKLAHOMA
COUNCIL OF PUBLIC AFFAIRS, INC., DOUGLAS P. BEALL, M.D., JONATHAN S. SMALL,
II, and JENNIFER WITHERBY, R.N., Petitioners/Protestants, v. KELLY SMALLEY and ERIN
TAYLOR, Respondents/Proponents. ORDER ¶1 Oral argument was held on June 18, 2019,
concerning a challenge to the sufficiency of the gist and the constitutionality of Initiative Petition
419, State Question 802, pursuant to 34 O.S.

Supp. 2015 § 8 (B) & (C). We find that the challenge to the gist's use of 133% in determining
eligibility for the proposed Medicaid expansion is not misleading and is sufficient. In McDonald
v. Thompson, we stated that "[b]y its very nature, the gist is a simple statement that summarizes
the petition." 2018 OK 25, ¶ 12, 414 P.3d 367, 373.

We believe the language of the gist is clear. The gist informs signers of what the proposed
amendment is intended to do--"expand Oklahoma's Medicaid program to include certain low-
income adults between the ages of 18 and 65 whose income does not exceed 133% of the federal

poverty level, as permitted under the federal Medicaid laws." (emphasis added). ¶2 The remaining challenges to the constitutionality of Initiative Petition 419, State Question 802, are also denied.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 19th day of June, 2019. /S/CHIEF JUSTICE CONCUR: Gurich, C.J., Darby, V.C.J., Kauger, J., Reif, S.J., Thornbrugh, S.J. and Swinton, S.J. CONCUR IN PART; DISSENT IN PART: Winchester and Combs, JJ. and Bell, S.J. Combs, J., with whom Winchester, J. and Bell, S.J., join, concurring in part; dissenting in part: "I concur with the majority that the Protestant's constitutional challenges to Initiative Petition 419 are meritless.

However, I dissent to its ruling that the gist is sufficient. The use in the gist of 133% of the federal poverty level rather than the more accurate 138% is misleading to signatories and therefore the petition should be stricken on that basis alone." RECUSED: Edmondson and Colbert, JJ. Citationizer© Summary of Documents Citing This Document Cite Name Level None Found.

Citationizer: Table of Authority Cite Name Level Oklahoma Supreme Court Cases CiteNameLevel 2018 OK 25, 414 P.3d 367, McDONALD v. THOMPSONDiscussed Title 34. Initiative and Referendum CiteNameLevel 34 O.S. 8, Filing Copy of Proposed Petition - Publication - Protest - Hearing and Determination - Signature Gathering DeadlineCited oscn EMAIL: webmaster@oscn.net Oklahoma Judicial Center 2100 N Lincoln Blvd.

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