

SUPREME COURT OF OREGON

Jimerson v. Rosenblum

360 Or 645 (2016) · No. SC S064348 · Decided December 8, 2016

SUMMARY

The Oregon Supreme Court reviewed a certified ballot title for Initiative Petition 1 (2018), which would have amended the Oregon Constitution to restrict public funding for abortions. The court held that the ballot-title summary was misleading because its statement that there was no exception for pregnancies resulting from rape or incest did not account for the measure’s exception based on federal law. The court upheld the result statements and referred the summary to the Attorney General for modification.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Baldwin, J.
JURISDICTION	Oregon
DECIDED	December 8, 2016
DOCKET	SC S064348
DISPOSITION	remanded
PROCEDURAL POSTURE	Petition for review of the Attorney General's certified ballot title for Initiative Petition 1 (2018).
STANDARD OF REVIEW	The court reviews a certified ballot title to determine whether it substantially complies with the requirements of ORS 250.035(2).
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	Jeff Jimerson, Marylin Shannon, Suzanne Belatti v. Ellen F. Rosenblum, Attorney General, State of Oregon

TOPICS

- election law
- election administration
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- election law
- constitutional law
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether the certified yes and no result statements substantially complied with ORS 250.035(2)(b) and (c).
2. Whether the certified ballot-title summary substantially complied with ORS 250.035(2)(d), particularly its statement that there was no exception for pregnancy resulting from rape or incest.

HOLDINGS

1. The certified yes and no result statements substantially complied with ORS 250.035(2)(b) and (c).
2. The sentence "No exception for pregnancy resulting from rape or incest" was misleading and did not substantially comply with ORS 250.035(2)(d), because the proposed measure contained a federal-law-dependent exception that might provide for public funding in those circumstances.

KEY QUOTATIONS

"We agree with petitioners that the sentence, "No exception for pregnancy resulting from rape or incest[.]" is misleading and must be modified." (649)

"Whether federal law currently "requires" such funding, IP 1, § 3(1)—or, in the future, may (or may not) require it—is uncertain, but it is inaccurate and misleading to state that IP 1 contains no such exception at all." (649)

FACTUAL BACKGROUND

Initiative Petition 1 proposed amending the Oregon Constitution to prohibit spending public funds for abortions and health plans covering abortions, subject to specified exceptions. One exception permitted public funding when federal law required states to provide abortion funding, including in circumstances such as rape or incest, to the extent the federal requirement was constitutional. The Attorney General's certified ballot-title summary stated, "No exception for pregnancy resulting from rape or incest."

PROCEDURAL HISTORY

The Attorney General prepared and certified a ballot title for Initiative Petition 1 after public comment. The chief petitioners and electors sought review in the Oregon Supreme Court, challenging the yes and no result statements and the summary under ORS 250.035(2). The court held that the result statements substantially complied with the statute but that one sentence in the summary was misleading, and referred the ballot title to the Attorney General for modification.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The certified ballot title, specifically the summary, was referred to the Attorney General for modification consistent with the court's determination that the statement concerning rape or incest was misleading.

CASES CITED

- Conroy v. Rosenblum, 358 Or 807, 815, 371 P3d 1180 (2016)
- Berman v. Kroger, 347 Or 581, 584-85, 227 P3d 692 (2010)
- Wolf v. Myers, 343 Or 494, 501, 173 P3d 812 (2007)

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