



STOTTS v. NICHOLS

2022 OK 77

Case Number: 120698

Decided: 09/21/2022

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2022 OK 77, __ P.3d __

NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL.

JOHN STOTTS, KARMA ROBINSON, and MARY CHRIS BARTH, Petitioners,
v.
MICHELLE DIANE TILLEY NICHOLS, and MICHELLE ANNE JONES, Respondents.

ORDER

On September 14, 2022, the Petitioners filed an Application to Assume Original Jurisdiction and Petition to Review the sufficiency of the re-written ballot title for State Question 820, Initiative Petition 434. 34 O.S. 2021, § 10(A). We find the following ballot title as re-written by the Attorney General and submitted on July 26, 2022 is sufficient:

This measure creates a state law legalizing recreational use marijuana for persons 21 or older. Marijuana use and possession remain crimes under federal law. The export of marijuana from Oklahoma is prohibited. The law will have a fiscal impact on the State. The Oklahoma Tax Commission will collect a 15% excise tax on recreational use sales, above applicable sales taxes. Excise tax revenues will fund implementation of the law, with any surplus revenues going to public school programs to address substance abuse and improve student retention (30%), the General Revenue Fund (30%), drug addiction treatment programs (20%), courts (10%), and local governments (10%). The law limits certain marijuana-related conduct and establishes quantity limits, safety standards, restrictions, and penalties for violations. A local government may prohibit or restrict recreational marijuana use on the property of the local government and regulate the time, place, and manner of the operation of marijuana businesses within its boundaries. However, a local government may not limit the number of, or completely prohibit, such businesses. Persons who occupy, own, or control private property may prohibit or regulate marijuana-related conduct, except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking. The law does not affect an employer's ability to restrict employee marijuana use. For the first two years, marijuana business licenses are available only to existing licensees in operation one year or more. The law does not affect the rights of medical marijuana patients or licensees. The law requires resentencing, reversing, modifying, and expunging certain prior marijuana-related judgments and sentences unless the State proves an unreasonable risk to a person. The Oklahoma Medical Marijuana Authority is authorized to administer and enforce the law.

Shall the proposal be approved?

For the proposal -- YES

Against the proposal -- NO

Original jurisdiction is assumed. Okla. Const. Art. 7, (4. All other relief is denied. Any rehearing on this matter must be filed with this Court by 12:00 p.m., noon, on Monday, September 26, 2022.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 21ST DAY OF SEPTEMBER, 2022.

/S/CHIEF JUSTICE

Darby, C.J., Kauger, Winchester, Edmondson, Combs, Gurich and Rowe, JJ., concur;

Kane, V.C.J. (**by separate writing**), dissents;

Kuehn, J. (**by separate writing**), concurs in part; dissents in part.

KANE, V.C.J., dissenting:

¶1 As I expressed in *In re State Question 807, Initiative Petition No. 423* (Kane, V.C.J., dissenting), [2020 OK 57, 468 P.3d 383](#), I respectfully dissent to proceeding forward with the ballot title approval because it is preempted by federal law, as the object of the proposed initiative petition clearly presents a substantial obstacle to the United States Congress's objectives expressed in the Controlled Substances Act, 21 U.S.C. §§ 801 -- 904.

KUEHN, J., CONCURRING IN PART AND DISSENTING IN PART:

¶1 concur with assuming original jurisdiction, but dissent to the Majority's approval of the ballot title as re-written by the Attorney General. I would adopt the Petitioner's proposed language with regard to legalizing distribution and cultivation in some instances, decriminalizing some marijuana crimes, and removing certain provisions designed to protect persons under the age of 21.

Citationizer[®] Summary of Documents Citing This Document

Cite Name Level

None Found.

Citationizer: Table of Authority

Cite Name	Level	
Oklahoma Supreme Court Cases		
Cite	Name	Level
2020 OK 57, 468 P.3d 383 ,	IN RE: STATE QUESTION No. 807, INITIATIVE PETITION No. 423	Discussed
Title 34. Initiative and Referendum		
Cite	Name	Level
34 O.S. 10 ,	Appeal Upon Question of Ballot Title	Cited

