



OKLAHOMA STATE COURTS NETWORK

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BROOKS et al. v. REYNOLDS et al.

2026 OK 71

Case Number: 123982

Decided: 10/05/2026

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2026 OK 71, __ P.3d __

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CAEDMON BROOKS, RICKEY, GOWIN, DAWN REITAN-BROCKMAN, SHELLEY ARROTT, CARL TESREAU, LATASHA BROADHEAD, SHERRI CHRISTIAN, CLAUDIA SWISHER, TRACI THORPE, and ADAM LEAMING,
Petitioners/Protestants,

v.

MICHAEL D. REYNOLDS, REPRESENTATIVE JAY STEAGALL, and SENATOR SHANE JETT, Respondents.

ORDER

The Court assumes original jurisdiction pursuant to 34 O.S. Supp.2025, § 8(D) and Article VII, § 4 of the Oklahoma Constitution. Protestants and Oklahoma citizens Caedmon Brooks, Rickey Gowin, Dawn Reitan-Brockman, Shelley Arrott, Carl Tesreau, Latasha Broadhead, Sherri Christian, Claudia Swisher, Traci Thorpe, and Adam Learning timely challenge the constitutionality of State Question 843, Initiative Petition 455. 34 O.S. Supp. 2025, § 8(B).

State Question 843, Initiative Petition 455 would amend 68 O.S., § 2890 to phase out ad valorem taxation on homesteads over a three-year period, fully exempting homesteads in year three. Protestants contend State Question 843, Initiative Petition 455 conflicts with multiple provisions of the Oklahoma Constitution found in Article X, §§ 8, 8B, 8C(A), 8F, 9(b), 9(c), 9C, 9D and should be rendered unconstitutional. Respondents counter that all of State Question 843, Initiative Petition 455 is constitutional and should proceed to the signature phase, arguing all doubt should be resolved in favor of the initiative petition and Art. XII-A of the Oklahoma Constitution permits expansion of homestead exemptions.

"The [Oklahoma] Constitution is the bulwark to which all statutes must yield." *Liddell v. Heavner*, 2008 OK 6, ¶ 16, 180 P.3d 1191, 1199. "The Oklahoma Constitution prevails over a conflicting statute, and where a statute violates one constitutional provision, another constitutional provision cannot save it." *Inst. for Responsible Alcohol Pol'y v. State ex rel. Alcoholic Beverage L. Enf't Comm'n*, 2020 OK 5, ¶ 18, 457 P.3d 1050, 1057. A statute proposed by initiative petition is subject to the same constitutional constraints as an act of the Legislature. While "the fundamental and precious right of initiative petition is zealously protected by this Court, it is not absolute," as any citizen can protest its legality. *In re Initiative Petition No. 420, State Question No. 804*, 2020 OK 10, ¶ 3, 458 P.3d 1080, 1083.

The proposed statutory amendment conflicts with Article X, § 8 of the Oklahoma Constitution. Article X, § 8 requires that real property "shall not be assessed for ad valorem taxation at a value less than eleven percent (11%) nor greater than thirteen and one-half percent (13.5%) of its fair cash value . . ." The proposed statutory amendment eliminates ad valorem taxes on homestead real property by 2029, meaning the homestead real

property would be assessed for taxation at zero dollars. This blatant conflict runs afoul of the Oklahoma Constitution as a homestead would not be assessed in accordance with the constitutional strictures governing ad valorem taxation of real property. *Liddell*, ¶ 17, 180 P.3d at 1200. Because we find State Question 843, Initiative Petition 455 violates Article X, § 8 of the Oklahoma Constitution, we need not address Respondents' additional arguments.

Accordingly, the Court grants the Protestants' request for relief and declares that State Question 843, Initiative Petition 455 clearly and manifestly violates the Oklahoma Constitution.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 5TH DAY OF OCTOBER, 2026.

/s/ _____

ACTING CHIEF JUSTICE

CONCUR: Winchester, Edmondson, Combs, Gurich, and Darby, JJ.

DISSENT: Rowe, C.J. (by separate writing), Kuehn, V.C.J. (by separate writing), Kane, J., Blackwell, S.J. (by separate writing).

RECUSED: Jett, J.

ROWE, C.J., DISSENTING:

¶1 From 1910 to 1975, our jurisprudence on the scope of review of initiative petitions was clear: unless the petition suffers from a procedural impediment, the judiciary will not interfere and the measure will be submitted to a vote of the people. See *Threadgill v. Cross*, 1910 OK 165, ¶ 22, 109 P. 558, 563. This standard was not only workable in application, but it honored the inherent power vested in the people by the Oklahoma Constitution to propose laws and make amendments to the Constitution. See Okla. art. V, § 2. In 1975 we departed from *Threadgill*, permitting the Court to conduct a pre-election review of the constitutionality of an initiative petition. In *re Supreme Ct. Adjudication of Initiative Petitions in Norman, Oklahoma Numbered 74-1 & 74-2*, we wrote:

Under present initiative procedure, 34 O.S.Supp. 1973 § 8, administrative duties formerly placed on administrative officials have been legislated directly to this court. We believe this court is not limited solely to the duties of an administrative officer or act. It may consider the constitutionality of matters to be considered under the initiative and referendum process as to procedure form and subject matter, when raised, and if in this court opinion such a determination could prevent a costly and unnecessary election.

Norman, 1975 OK 36, ¶ 19, 534 P.2d 3, 8. *Norman* justified its pre-election constitutional review on the belief that its authority was not limited to administrative acts but extended to constitutional issues if it would prevent a costly and unnecessary election.

¶2 It was not until 2009, however, that the Legislature amended 34 O.S. § 8 to include "any citizen or citizens of the state may file a protest as to the *constitutionality of the petition*, by a written notice to the Supreme Court . . ." 34 O.S. § (8)(B) (emphasis added). In conjunction with *Norman*, this Court has interpreted § 8 to confer jurisdictional authority upon us to consider the constitutionality of initiative petitions. Relying on *Norman* and its progeny and § 8, we have stricken initiative petitions for constitutional infirmities, reasoning that submitting the measure to a vote of the people would result in the costly undertaking of an election that would result in a clearly unconstitutional law.

¶3 But by striking down petitions before they have been put to a vote, we diminish the people's exercise of their inherent power reserved to them by the Oklahoma Constitution. Our pre-election review places us at odds with the Constitution by transforming us into a pre-election gatekeeper.

¶4 Before *Norman* the standard was simple: the Court's review was limited to procedural and sufficiency inquiries, thereby preserving the people's inherent power to the initiative petition process. Today, our standard on pre-election constitutional review has evolved to determining whether there are "clear or manifest facial constitutional infirmities" in the proposed measure. *In re Initiative Petition No. 358, State Question No. 658*, 1994 OK 27, ¶ 7, 870 P.2d 782, 785. The current standard leaves the exercise of jurisdiction entirely dependent upon our determination of whether a constitutional infirmity is sufficiently "clear" or "manifest." This results in the Court deciding--case by case--when an initiative petition warrants constitutional review. See *State of Chamber of Oklahoma v. Cobbs*, 2024 OK 13, 545 P.3d 1216.

¶5 It is time we reevaluate our jurisprudence in light of our duty to "zealously protect[]" "this fundamental and precious right" of the initiative petition reserved to the people of Oklahoma. *In re Initiative Petition No. 409*, 2016 OK 51, ¶ 2, 376 P.3d 250, 252. The jurisdiction conferred to us by the Legislature to review the constitutionality of an initiative petition is not mandatory, and we need not treat it as such.

¶6 The Proponents are seeking to amend 68 O.S. § 2890. By doing so, they invoke legislative power reserved to them--power to vote on a proposed amendment to an existing statute. When the Legislature is in session and bills proposing new laws or amendments to existing laws are introduced, we do not intervene to determine the constitutionality of those proposed measures before they are enacted. Why, then, should we afford the people any less deference when they exercise legislative power reserved to them?

¶7 As we explained more than a century ago, "[i]t is within the power of the courts to determine what the law is, after it has been enacted . . . but the courts are without power to say what law shall or shall not be enacted." *Cress v. Estes*, 1914 OK 361, 142 P. 411, 412. Pre-election constitutional review of an initiative petition places us in precisely that position: we are determining the constitutionality of a measure before it becomes law and, in doing so, preventing the people from exercising the legislative power the Constitution has reserved to them.

¶8 The people of Oklahoma reserved for themselves the inherent power to "propose laws and amendments to the Constitution and to enact laws. . ." Okla. Const. art., V, § 1. I recognize that declining to exercise pre-election constitutional review may not be judicially economical, but judicial economy cannot alone justify diminishing the constitutional power reserved to the people. This constitutionally reserved power should not be diminished merely because its exercise results in a costly election or produces a law that ultimately proves unconstitutional.

¶9 Accordingly, I respectfully dissent.

KUEHN, V.C.J., Dissenting:

¶1 I agree with the Majority's decision to assume original jurisdiction. Having done so, I would deny the challenge. As I have previously stated, I do not believe this Court has jurisdiction to determine the constitutionality of an initiative petition before it has been presented to the people. *In re Initiative Petition No. 448, State Question No. 836*, 2025 OK 56, ¶ 2, 577 P.3d 276, 288-89 (Kuehn, V.C.J., concurring in part and dissenting in part); *State Chamber of Oklahoma v. Cobbs*, 2024 OK 13, ¶¶ 3-5, 545 P.3d 1216, 1216-17 (Kuehn, J., concurring in part and dissenting in part). Until sufficient signatures are gathered, a petition is presented to the people, voted on, and passed into law, there is no case or controversy for this Court to determine. *Cobbs*, 2024 OK 13, ¶ 6, 545 P.3d 1217-18 (Kuehn, J., concurring in part and dissenting in part).

¶2 There is one narrow exception. Article 2, Section 1 of the Oklahoma Constitution provides that the people of Oklahoma have the right to "alter or reform" the statutes and Constitution, as long as any change is not "repugnant to the Constitution of the United States." Okla. Const., art. 2, § 1. I discussed the meaning of "repugnant" in this context, and the application of this clause, in *Initiative Petition No. 448*, 2025 OK 56, ¶¶ 4-6,

577 P.3d at 289-90 (Kuehn, V.C.J., concurring in part and dissenting in part). This comes into play only where an initiative petition "directly contradicts or opposes specific language" already existing in the Federal Constitution. *Id.*, ¶ 10, 577 P.3d at 290 (Kuehn, V.C.J., concurring in part and dissenting in part).

¶3 This exception does not apply here. The Majority determines that the provisions of Initiative Petition 455 directly contradict an existing provision of the Oklahoma Constitution. I express no opinion on that determination, beyond noting that the Petition attempts to amend a constitutional provision by statute, which cannot be done. However, the language of Article 2, Section 1 is clear: we look *only* at the Federal Constitution. This is wholly consistent with the policy underlying that provision. All political power is reserved to the people; they may propose, and even pass, laws which contradict the state Constitution; they may want to articulate what they believe should be state policy or influence subsequent laws. *Cobbs*, 2024 OK 13, ¶ 8, 545 P.3d at 1218 (Kuehn, J., concurring in part and dissenting in part).

¶4 The people have the power to enact laws. Initiative Petition 455 must still garner sufficient signatures, survive any procedural challenges to the gist as well as challenges to the signatures and ballot title, go to a vote of the people, and pass. Neither any individual step nor a successful outcome are guaranteed at this very early stage. If the Petition passes, the people will have enacted a statute, which is subordinate to the provisions of the Oklahoma Constitution and may not conflict with it. *Liddell v. Heavner*, 2008 OK 6, ¶ 16, 180 P.3d 1191, 1199. If it conflicts, a constitutional challenge may be brought to this Court, and it will be ripe for decision. Even without such a challenge, if the statute attempts to amend a conflicting provision of the Oklahoma Constitution, it would be unenforceable. And that statute may be amended or repealed by the Legislature. These procedural safeguards protect the provisions of the constitutions of Oklahoma and the United States, while preserving the inherent political power of the people. Because I would send the Petition to a vote of the people, I dissent.

BLACKWELL, S.J., with whom KUEHN, V.C.J., and KANE, J., join, dissenting:

¶1 Since 1975 this Court has assumed original jurisdiction to opine on the constitutionality of the people's *proposed* laws. Because such premature action--striking down not law, but the embryonic *notion* of law--is wholly inconsistent with the text, the history, and the structure of the Oklahoma Constitution, I respectfully dissent.

¶2 From the founding of our State until 1975, this Court rightly refused to involve itself in passing on the substance of laws or constitutional amendments proposed by the people unless and until those proposals actually became law. In *Threadgill v. Cross*, 1910 OK 165, 109 P. 558, decided just three years post-statehood (and concerning a constitutional amendment proposed by the people), this Court unanimously "refrain[ed] from expressing any opinion whatever upon what the effect of such amendment will be, if adopted." *Id.* ¶ 23, 563. The Court rightly saw that "[t]he duty of determining what law shall be enacted and what law shall not be enacted rests neither upon the executive nor the judicial department." *Id.* ¶ 19, 562. It is axiomatic that the act of making law is a legislative function, granted to the legislature, and in our state, also reserved by the people. OKLA. CONST. art. V, § 1. Indeed, "[t]he *first* power reserved by the people is the initiative" *Id.* § 2 (emphasis added).

¶3 The Court held steadfast to the rule of *Threadgill*, unanimously decided by the same men that had a heavy hand in drafting the very text they were then interpreting, ¹ until its retreat in 1975 when it unceremoniously determined, without any significant analysis, that the Court "may consider the constitutionality of matters to be considered under the initiative and referendum process as to procedure form (sic) *and subject matter*, when raised, and if in this court (sic) opinion such a determination could prevent a costly and unnecessary election." *In re Supreme Court Adjudication of Initiative Petitions in Norman, Oklahoma Numbered 74-1 & 74-2*, 1975 OK 36, ¶ 19, 534 P.2d 3, 8 (emphasis supplied) (hereinafter *Norman*). ²

¶4 In the years since the Court's about-face in *Norman*, several members of this Court have encouraged the Court to return to its proper role. See, e.g., *In re Initiative Petition No. 349, State Question No. 642*, 1992 OK 122, ¶ 5, 838 P.2d 1, 16 (Wilson, J., dissenting in part) ("[T]he plain words of our state constitution forbid the use of judicial

power to prevent or interfere with the legislative process invoked by the initiative petition.... The only course available to this Court is to determine the validity of the count of electors signing the initiative petition and the legality of the ballot title."); *In re Initiative Petition No. 358, State Question No. 658*, 1994 OK 27, ¶ 2, 870 P.2d 782, 788 (Opala, J., concurring in the result) ("I would not undertake to test the validity of a measure's content *before* its adoption by a vote of the people. My commitment to the *undiluted force* of *Threadgill v. Cross* continues with *undiminished fervor*." (footnotes omitted)); *Oklahoma Indep. Petroleum Ass'n v. Potts*, 2018 OK 24, ¶ 12, 414 P.3d 351, 365 (Wyrick, J., concurring specially) (offering a detailed and persuasive analysis as to why this Court "lack[s] the power to judge the constitutionality of a measure before it actually becomes the law"); *State Chamber of Oklahoma v. Cobbs*, 2024 OK 13, ¶ 6, 545 P.3d 1216, 1217--18 (Kuehn, J., concurring in part, dissenting in part) ("[N]either the Oklahoma Constitution nor the initiative petition statute compels this Court to address such a challenge before it is ripe--before there is any law to discuss."); *Brooks v. Reynolds*, 2026 OK 71, ¶ 6 (Rowe, C.J., dissenting) (dissenting in this case and rightly noting: "When the Legislature is in session and bills proposing new laws or amendments to existing laws are introduced, we do not intervene to determine the constitutionality of those proposed measures before they are enacted. Why, then, should we afford the people any less deference when they exercise legislative power reserved to them?").

¶5 I need not recapitulate the sound analysis offered by these fine jurists. Their reflections, which I find persuasive, speak for themselves. Here, I only join my sojourning voice with theirs, suggesting that this Court does not have the power to declare nascent, unpassed, non-law unconstitutional. Our power is derived solely from our state Constitution, and nowhere does that document claim to give this body the power to declare invalid the *thought* or *idea* or *hope* of a law. ³

¶6 I urge this Court to reexamine whether it should continue to determine the constitutional viability of *would-be* laws. Because its present course is wholly inconsistent with our Constitution, I respectfully dissent. This Court should deny the petitioner's request that the Court assume original jurisdiction and thereby allow the respondent's petition to proceed.

FOOTNOTES

BLACKWELL, S.J., with whom KUEHN, V.C.J., and KANE, J., join, dissenting:

¹ The author of *Threadgill* was Justice Samuel W. Hayes, an original member of the Oklahoma Supreme Court who was unanimously elected as a delegate to Oklahoma's Constitutional Convention, held in Guthrie in 1906. Delegate Hayes "wielded much influence in the deliberations and work of that historic assembly, in which he served as chairman of the legal advisory committee and the committee on schedules, besides being a member of the important judiciary committee and that on Federal relations." Joseph B. Thoburn, *A STANDARD HISTORY OF OKLAHOMA, VOL. IV* (available at https://sites.rootsweb.com/~okhttp/history/volume_4/samuel_w_hayes.htm) (last visited October 1, 2026). *Threadgill* was unanimous, with Justices Matthew J. Kane, Jesse J. Dunn, Robert L. Williams, and John B. Turner, all concurring. Justices Kane and Williams also both served as delegates to Oklahoma's Constitutional Convention prior to statehood. Reportedly, Justice Williams, later Oklahoma's third governor, "took an active part in the deliberations of the Convention and was the author of many of the most advanced and progressive features of the constitution which it framed." Ann Maloney, *A Brief History of Oklahoma*, <https://sites.rootsweb.com/~oknowata/williams.htm> (last visited October 1, 2026).

² The Court appears to have justified its claim of this new power by a legislative change to the process of proposing a new law or amendment. Previously, a challenge to the "form" or "sufficiency" of the proposed law--i.e., to ensure the proper procedures had been followed and that the signatures were sufficient--fell to the Secretary of State, with an appeal lying to the Supreme Court. 34 O.S.1971, § 8. (At that time, there could be no challenge to a ballot measure prior to the collection of signatures.) In 1973, however, the legislature lessened the secretary's role and "legislated directly" to the Supreme Court the duty to check the form and sufficiency of the petition, if the same be challenged. *Norman*, ¶ 19, 8; Okla. Sess. Laws 1973, Ch. 78, H.B. 1030, § 1. The *Norman* Court seems to have taken issue with these new duties, stating: "We believe this court is not limited solely to the duties of an administrative officer or act." *Norman*, ¶ 19, 8. Nothing in the 1973 law, however, suggests the legislature intended any change to the review the Court had limited the secretary to in 1910: a review of the form and sufficiency of the petition only. The Court manufactured its newly found authority to review the *substance* of the law without any authority from the legislature.

³ I would also note that this Court has routinely, as it does today, cited language in 34 O.S. § 8 as supplying the necessary grant of jurisdiction to this Court. But that language does nothing of the sort. The relevant language--stating only that the Secretary of State's *notice* of the filing of a petition "shall include notice that any citizen or citizens of the state may file a protest as to the constitutionality of the petition," 34 O.S. § 8(B)--is not a grant of jurisdiction. Rather, that language is nothing more than legislative acquiescence of this Court's 1975 theft of the people's retained power to author their own law, whether constitutional or not.

Indeed, the cited provision was not even contained in the law at the time of the *Norman* Court's silent revolution but was unceremoniously passed in 2009. See 2009 Okla. Sess. Law, Ch. 318, S.B. 800, § 1. When the legislature grants statutory jurisdiction to this Court under the fallback provision contained in article 7, section 4 of our Constitution--"[t]he Supreme Court ... may exercise such other and further jurisdiction as may be conferred by statute," OKLA. CONST. art. VII, § 4--this Court should require a clear grant. Such clauses are not difficult to write, and the legislature has proven time and time again that it is capable in this regard. See, e.g., 19 O.S. § 24 ("Exclusive, original jurisdiction is hereby conferred upon the Supreme Court of Oklahoma over all controversies that may arise under the provisions of this act"); 19 O.S. § 896 (same); 2 O.S. § 4011 (same); 62 O.S. § 57.12 (same); 20 O.S. § 14 (same); 20 O.S. § 14.1 (same); 19 O.S. § 87 (same); 82 O.S. § 882 (same); 69 O.S. § 1718 (same). The language of 34 O.S. § 8(B) does not use any such language but tacitly acknowledges the jurisdiction the Court granted *to itself* in 1975 and instructs the secretary to provide notice thereof. However, as discussed herein, the Court lacks the authority to assume jurisdiction to declare non-law unconstitutional. As such, this legislative acquiescence accomplishes nothing.

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Oklahoma Supreme Court Cases

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<u>1914 OK 361</u> , <u>142 P. 411</u> , <u>43 Okla. 213</u> ,	<u>CRESS v. ESTES et al.</u>	Discussed
<u>1992 OK 122</u> , <u>838 P.2d 1</u> , <u>63 OBJ 2386</u> ,	<u>Initiative Petition No. 349, State Question No. 642, In re</u>	Discussed

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<u>1994 OK 27, 870 P.2d 782, 65 OBJ 886,</u>	<u>In re Initiative Petition No. 358, State Question No. 658</u>	Discussed at Length
<u>1910 OK 165, 109 P. 558, 26 Okla. 403,</u>	<u>THREADGILL v. CROSS</u>	Discussed at Length
<u>2008 OK 6, 180 P.3d 1191,</u>	<u>LIDDELL v. HEAVNER</u>	Discussed at Length
<u>1975 OK 36, 534 P.2d 3,</u>	<u>IN RE SUPREME COURT ADJUDICATION, ETC.</u>	Discussed at Length
<u>2016 OK 51, 376 P.3d 250,</u>	<u>IN RE INITIATIVE PETITION NO. 409, STATE QUESTION NO. 785</u>	Discussed
<u>2018 OK 24, 414 P.3d 351,</u>	<u>OKLAHOMA INDEPENDENT PETROLEUM ASSOCIATION v. POTTS</u>	Discussed
<u>2020 OK 5, 457 P.3d 1050,</u>	<u>THE INSTITUTE FOR RESPONSIBLE ALCOHOL POLICY v. STATE ex rel. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMM.</u>	Discussed
<u>2020 OK 10, 458 P.3d 1080,</u>	<u>IN RE: INITIATIVE PETITION No. 420 STATE QUESTION No. 804</u>	Discussed
<u>2024 OK 13, 545 P.3d 1216,</u>	<u>STATE CHAMBER OF OKLAHOMA v. COBBS</u>	Discussed at Length
<u>2025 OK 56, 577 P.3d 276,</u>	<u>IN RE INITIATIVE PETITION NO. 448, STATE QUESTION NO. 836; THE OKLAHOMA REPUBLICAN PARTY, et. al. v. SETTER, et. al.</u>	Discussed at Length

Title 2. Agriculture

Cite	Name	Level
<u>2 O.S. 4011,</u>	<u>Application with the Supreme Court of Oklahoma for Approval of Bonds</u>	Cited

Title 19. Counties and County Officers

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<u>19 O.S. 24,</u>	<u>Supreme Court to Decide Controversies</u>	Cited

Title 34. Initiative and Referendum

Cite	Name	Level
<u>34 O.S. 8,</u>	<u>Filing Copy of Proposed Petition - Filing Fee - Publication - Protest - Hearing and Determination - Signature Gathering Deadline - Circulation Requirements</u>	Discussed at Length

Title 68. Revenue and Taxation

Cite	Name	Level
<u>68 O.S. 2890,</u>	<u>Additional Exemption Allowed for Homestead</u>	Discussed