
IN THE SUPREME COURT OF FLORIDA

Case no. 81,394

Upon A Request From The
Attorney General For An
Advisory Opinion As To The
Validity Of An Initiative Petition

IN RE:

ADVISORY OPINION
TO THE ATTORNEY GENERAL -
NET BAN IN CERTAIN NEAR SHORE
FLORIDA WATERS

INITIAL BRIEF OF THE CONSERVATION COALITION
IN SUPPORT OF THE NET BAN INITIATIVE

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STATEMENT OF THE CASE AND FACTS

This cause comes before the Court on a request by the Attorney General for an advisory opinion as to the validity of an initiative petition to amend the Florida Constitution so as to restrict marine net fishing. The amendment would add section 16 to Article XI of the Florida Constitution, which would prohibit gill and other entangling nets as well as nets over 500 square feet in nearshore and inshore salt waters.

The Attorney General seeks an advisory opinion pursuant to section 16.061(1), Florida Statutes, requesting this court for a determination as to whether the proposed amendment complies with the *one subject* requirement in Article X, section 3, and whether the ballot summary and title comport with the requirements of section 101.161(1), Florida Statutes (1991). On February 19, 1993, the Secretary of State certified that the procedural requirements of section 15.21, Florida Statutes had been satisfied, and the Attorney General submitted his request to this court in less than the thirty day time limit of section 16.061(1), Florida Statutes. As to the question of the compliance of the initiative sub judice with the *single subject* and ballot title and summary requirements, the Attorney General's letter expresses the opinion that the initiative complies with those requirements.

On March 17, 1993, this Court issued an Interlocutory Order in which it recognized the Attorney General's letter, and invited interested parties to file briefs and to appear at oral argument on the issue. However, the Court's Order makes clear that briefs and

argument must be limited to the issues of the *one subject* requirement and the legal sufficiency of the title and ballot summary.

This brief is submitted on behalf of the Conservation Coalition, which is a coalition consisting of the Florida Conservation Association, the Florida Wildlife Federation, the Florida League of Anglers, the Florida Coalition of Fishing Clubs. The members of each of these environmental organizations use and enjoy the salt water resources of Florida and are deeply committed to the protection and conservation of Florida's delicate and irreplaceable marine environment.

SUMMARY OF THE ARGUMENT

The questions before this court are the whether the proposed amendment addresses one subject only, and whether the title and ballot summary comply with Article X, section 3, Florida Constitution, and section 101.161, Florida Statutes. The decisions of this court, when applied to the initiate sub judice, indicate that the proposed amendment limiting marine net fishing complies fully with those requirements.

ARGUMENT

The issue before this Court is whether the voters of Florida should have an opportunity to decide whether to amend the constitution. However, multiple simultaneous amendments detract from the stabilizing role of the constitution and the single subject restriction on proposed constitutional amendments serves to prevent multiple precipitous changes. For that reason, the single subject question should be applied in a practical, functional way. Fine v. Firestone, 448 So. 2d 984, 990 (Fla. 1984). In Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices, 592 So. 2d 225, 227 (Fla. 1991), this Court held that a proposed amendment satisfies the single subject requirement if it "may be viewed as having a natural relation and connection as component parts of aspects of a single dominant plan or scheme." (quoting City of Coral Gables v. Gray, 154 Fla. 881, 883-84, 19 So. 2d 318, 320 (Fla. 1944)). The amendment restricting marine net fishing addresses that single issue and clearly constitutes a single subject under any standard.

In Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices, 592 So. 2d 225, 227-28 (Fla. 1991), this Court recognized that the eight year limit on certain elected officials did not conflict with existing qualifications such as age and residency, but merely added additional qualifications. The proposed amendment sub judice similarly supplements rather than repeals or conflicts with existing provisions. Article II, section 7 mandates that the

policy of the state shall be to conserve and protect its natural resources. By restricting marine net fishing practices that cause unnecessary killing, overfishing and waste, the proposed amendment pursues precisely the same goal, but merely adds specific provisions to conserve marine resources in particular.

For these reasons, the proposed amendment meets the "one subject" requirement.

The ballot title and summary requirements are also clearly met. Those requirements, set out in Section 101 are:

Whenever a constitutional amendment . . . is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot The substance of the amendment . . . shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

The ballot title and summary at issue here provide:

LIMITING MARINE NET FISHING

Limits the use of nets for catching saltwater finfish, shellfish, or other marine animals by prohibiting the use of gill and other entangling nets in all Florida waters, and prohibiting the use of other nets larger than 500 square feet in mesh area in nearshore and inshore Florida waters. Provides definitions, administrative and criminal penalties, and exceptions for scientific and governmental purposes.

This court has previously construed this provision to require the ballot to be fair and to advise the voter sufficiently to allow an intelligent decision on how to cast his ballot. The title and summary must state in clear language the chief purpose of the measure. Askew v. Firestone, 421 So. 2d 151, 155 (Fla. 1982). Although every detail of the amendment is not described, the

summary is sufficient to meet that test. Caroll v. Firestone, 497 So. 2d 1204. 1206 (Fla. 1966); Grose v. Firestone, 422 So. 2d 303, 305 (Fla. 1982); Miami Dolphins Ltd. v. Dade County, 394 So. 2d 981, 987 (Fla. 1981). For these reasons, the title and ballot summary clearly satisfy the requirements of Section 101.161(1), Florida Statutes.

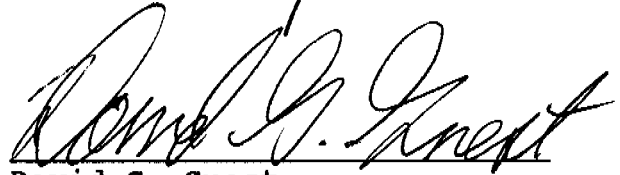
CONCLUSION

For the above-stated reasons, the Conservation Coalition respectfully submits that the proposed amendment limiting marine net fishing satisfies the single subject requirement and the ballot title and summary requirements.

REQUEST TO APPEAR AT ORAL ARGUMENT

The Conservation Coalition requests this court's permission to appear and be heard at oral argument in this cause.


Respectfully submitted this 16th day of April,
1993.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been provided by U.S. Mail this 16th day of April, 1993, to: The Honorable Robert A. Butterworth, Attorney General, PL 01, The Capitol, Tallahassee, Florida 32399 and Mike Rosen, Holland & Knight, P.O. Drawer 810, Tallahassee, Florida 32302.


Attorney