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SC19-2116

IN THE SUPREME COURT OF FLORIDA

ADVISORY OPINION TO THE ATTORNEY GENERAL RE: ADULT USE OF MARIJUANA

SUPPLEMENTAL BRIEF OF DRUG FREE AMERICA FOUNDATION, FLORIDA COALITION ALLIANCE, NATIONAL FAMILIES IN ACTION, AND SMART APPROACHES TO MARIJUANA, IN OPPOSITION TO THE INITIATIVE

WEBER, CRABB & WEIN, P.A.
JEREMY D. BAILIE (FBN 118558)
5453 Central Avenue
St. Petersburg, Florida 33710
(727) 828-9919
jeremy.bailie@webercrabb.com
lisa.willis@webercrabb.com
Counsel for Opponents
Drug Free America Foundation, Florida Coalition Alliance, National Families in Action, and Smart Approaches to Marijuana

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ARGUMENT

This Court entered its Order on April 13, 2020, inviting supplemental briefing on the question of the impact of chapter 2020-15, Laws of Florida, on the instant case. The Drug Free Opponents[1] respectfully suggest the Legislature's modifications to the ballot initiative process renders the instant matter moot and request this Court decline to exceed its jurisdiction in this matter and dismiss this case.

I. Legislative Changes Provided by Chapter 2020-15, Laws of Florida

The Legislature enacted a moderate update to a number of statutes that regulate the ballot initiative process. Particularly important here, the Legislature increased the number of signatures needed to trigger this Court's review.[2] The Legislature increased the number of signatures needed to trigger this Court's review by amending § 15.21(3) to now require a sponsor to:

> Obtain[] a letter from the Division of Elections confirming that the sponsor has submitted to the appropriate supervisors for verification, and the supervisors have verified, forms signed and dated equal to 25 ~~10~~ percent of the number of electors statewide required by s. 3, Art. XI of the State Constitution ~~and~~ in one-half ~~at least one-fourth~~ of the congressional districts of the state ~~required by s. 3, Art. XI of the State Constitution~~.

Section 1, Chapter 2020-15, Laws of Florida.

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[1] Drug Free American Foundation, Florida Coalition Alliance, National Families in Action, and Smart Approaches to Marijuana (collectively, the "Drug Free Opponents").

[2] Other opponents have addressed the Legislature's expansion of this Court's review of proposed initiatives. If this Court continues to review this matter, it should also determine whether the Proposed Amendment is facially invalid under the United States Constitution.

The Legislature provided these amendments would "take effect upon becoming law" Section 8, Chapter 2020-15, Laws of Florida. The amendments were signed by the Governor into law on April 8, 2020. *Id.*

II. The Legislative Changes Render the Instant Matter Moot

Once the Attorney General receives notice from the Secretary of State that the sponsor of a ballot initiative has obtained the signatures required under § 15.21(3), the Attorney General must "request the opinion of the justices of the supreme court as to the validity" of the initiative petition pursuant to Art. IV, § 10, Fla. Const. This Court then has mandatory jurisdiction to provide "an advisory opinion of the justices, addressing issues as provided by general law" Art. V, § 3(b)(10), Fla. Const.

This Court's jurisdiction is predicated on the Secretary of State's certification to the Attorney General the proposed amendment has obtained the signatures required under § 15.21(3). Because Make It Legal fails to satisfy the statutory threshold, this Court lacks jurisdiction to continue its review of this matter. As a result, any opinion from this Court would be a purely hypothetical advisory opinion as to the legality of the ballot initiative.

Even when rendering an advisory opinion, pursuant to its constitutional mandate, justices of this Court have declined to entertain hypothetical or moot questions. *See, generally, In re Advisory Opinion to the Governor Request of July 12, 1976*, 336 So. 2d 97, 99, 103 (Fla. 1976). Indeed, when asked by the Governor

to opine on whether an appropriation passed by the Legislature was valid, among other related questions, this Court was careful to exercise its jurisdiction. *Opinion to the Governor*, 239 So. 2d 1, 10 (Fla. 1970). In addressing the specific questions raised by the Governor, this Court refused to answer at least one of the questions since "the factual situation which is a condition precedent" to the appropriation had not yet occurred, rendering "any present inquiry as to its validity is premature." *Id.*

Similarly, here, the Proposed Amendment has not obtained sufficient signatures to be placed on the 2020 ballot and it is not clear whether it will do so in time to be placed on the 2022 ballot. Thus, it is beyond the jurisdiction of this Court to render a hypothetical opinion on the validity of the Proposed Amendment prior to it obtaining the requisite signatures to trigger this Court's review.

CONCLUSION

This Court should decline to exceed its jurisdiction in this matter and dismiss this case as moot.

Respectfully submitted,
WEBER, CRABB & WEIN, P.A.

/s/ Jeremy D. Bailie

Jeremy D. Bailie (FBN 118558)
5453 Central Avenue
St. Petersburg, Florida 33710
(727) 828-9919
jeremy.bailie@webercrabb.com
lisa.willis@webercrabb.com
Counsel for Opponents
Drug Free America Foundation,

Florida Coalition Alliance, National Families in Action, and Smart Approaches to Marijuana

CERTIFICATE OF FONT COMPLIANCE

I HEREBY CERTIFY that this brief complies with the font requirements of Fla. R. App. P. 9.210(a).

WEBER, CRABB & WEIN, P.A.

/s/ Jeremy D. Bailie

Jeremy D. Bailie (FBN 118558)
5453 Central Avenue
St. Petersburg, Florida 33710
(727) 828-9919
jeremy.bailie@webercrabb.com
lisa.willis@webercrabb.com
Counsel for Opponents
Drug Free America Foundation, Florida Coalition Alliance, National Families in Action, and Smart Approaches to Marijuana

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of April, 2020, I filed the foregoing using the Florida Courts E-Filing Portal, which will electronically serve:

ASHLEY HOFFMAN LUKIS
ashley.lukis@gray-robinson.com
GEORGE T. LEVESQUE
george.levesque@gray-robinson.com
GrayRobinson, P.A.
Post Office Box 11189
Tallahassee, Florida 32302
Counsel for Make It Legal Florida

JEFFREY PAUL DESOUSA
Deputy Solicitor General
Office of the Attorney General
The Capitol, PL-01
Tallahassee, Florida 32399
oag.civil.eserve@myfloridalegal.com
amit.agarwal@myfloridalegal.com
jeffrey.desousa@myfloridalegal.com
Counsel for the Attorney General

DANIEL BELL
General Counsel
J. MICHAEL MAIDA
Deputy General Counsel
Florida House of Representatives
402 South Monroe Street, Suite 418
Tallahassee, Florida 32399
Daniel.Bell@myfloridahouse.gov
Michael.Maida@myfloridahouse.gov
Counsel for the Florida House of Representatives

JEREMIAH HAWKES
General Counsel
ASHLEY URBAN
Deputy General Counsel
Florida Senate
302 The Capitol
404 S. Monroe Street
Tallahassee, Florida 32399-1100
hawkes.jeremiah@flsenate.gov
urban.ashley@flsenate.gov
Counsel to the Florida Senate and Senate President Bill Galvano

BRAD MCVAY
General Counsel
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399
brad.mcvay@dos.myflorida.com
Counsel for the Secretary of State

JOE JACQUOT
General Counsel
Executive Office of the Governor
The Capitol
400 S. Monroe Street
Tallahassee, Florida 32399-0001
joe.jacquot@eog.myflorida.com
General Counsel to Governor Ron DeSantis

AMY J. BAKER
Coordinator
Financial Impact Estimating
Conference
Office of Economic and
Demographic Research
111 West Madison Street, Suite 574
Tallahassee, Florida 32399-6588
baker.amy@leg.state.fl.us

JASON GONZALEZ
DANIEL NORDBY
BENJAMIN GIBSON
AMBER STONER NUNNALLY
RACHEL PROCACCINI
Shutts & Bowen LLP
215 South Monroe Street, Suite 804
Tallahassee, Florida 32301
JasonGonzalez@shutts.com
DNordby@shutts.com
BGibson@shutts.com
ANunnally@shutts.com
RProcaccini@shutts.com

JULISSA RODRIGUEZ
Shutts & Bowen LLP
200 S. Biscayne Blvd., Suite 4100
Miami, Florida 33131
jrodriguez@shutts.com

Counsel for Opponents
Florida Chamber of Commerce,
Floridians Against Recreational
Marijuana, Save Our Society From
Drugs, and National Drug-Free
Workplace Alliance