DATE FILED: June 14, 2023 3:15 PM

SUPREME COURT OF COLORADO 2 East 14th Ave. Denver, CO 80203	
Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2023-2024 #30 ("Concerning Parole Eligibility") **Petitioner:** Christine M. Donner **v.** **Respondents:** Steven Ward and Suzanne Taheri **and** **Title Board:** Theresa Conley, Jeremiah Barry, and Kurt Morrison	**▲COURT USE ONLY▲**
Attorneys for Petitioner: Mark G. Grueskin, #14621 Nathan Bruggeman, #39621 Recht Kornfeld, P.C. 1600 Stout Street, Suite 1400 Denver, Colorado 80202 303-573-1900 (telephone) 303-446-9400 (facsimile) mark@rklawpc.com nate@rklawpc.com	Case Number: 2023SA119

PETITIONER'S ANSWER BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

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s/ Mark Grueskin
Mark Grueskin
Attorney for Petitioner

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INTRODUCTION

If Initiative #30 is enacted by voters, the commission of "crimes of violence" and the crimes specifically listed in the reenacted statutes will trigger a new restriction on the availability of parole for certain incarcerated persons and a new denial of the availability of parole for others. The problem is, Title Board members and Proponents of Initiative #30 vacillated at rehearing between stating there was a single statute that defined "crime of violence" and acknowledging there are several such statutes. By the end of the rehearing, the Board believed there was probably one statute that applied, but they didn't know which statute it was. And then they set a title that indicated that all the statutory definitions applied.

In this appeal, the Title Board's Opening Brief embraces both theories in defending the language of the titles set by the Board. In other words, the Board's Opening Brief is faithful to the Board's lack of understanding of this muddled measure.

If the question of the meaning of a "crime of violence" was a minor issue in Initiative #30, the title's flawed language would not hold quite so much potential to mislead voters. But the commission of such a crime is ***the*** factor that determines, for certain persons, whether parole is a more remote option than it is today and, for others, whether that option disappears altogether.

The Board should not have set a title for a measure it could not understand. And if any title was to be set, it should not have reflected language that would confuse voters about what this measure will actually accomplish.

Because the Board erred as to its finding of jurisdiction and as to its duty to set a clear title, the Court must reverse the decision below.

LEGAL ARGUMENT

I. THE TITLE BOARD LACKED JURISDICTION TO SET A TITLE ON INITIATIVE #30.

A. The Board did not understand the key element of Initiative #30, and the Board has no jurisdiction over measures that are so inherently confusing.

1. This issue was preserved below.

The Title Board[1] does not dispute this issue was preserved below. Title Bd. Op. Br. at 11.

2. No title should have been set for an initiative that Board members admitted they could not understand.

Petitioner's Opening Brief discussed at length just how confused the Title Board was about this measure. It wasn't a matter of Objector projecting her own belief that the measure lacked clarity; the Board members openly and uniformly

[1] The Proponents of Initiative #30 also filed an opening brief. That brief does not raise any unique arguments about Petitioner's challenges, and so its general arguments in support of the titles set are not addressed separately in Petitioner's Answer Brief.

admitted they could not define just how far this measure would apply in terms of restricting the availability of parole. *See* Pet. Op. Br. at 16-17.

Without acknowledging those admissions, the Title Board now contends the measure was clear, or at least clear enough to set a clear ballot title. Title Bd. Op. Br. at 7-8. But the Board's opening brief embodies the very confusion that befuddled the Board.

On the one hand, the Board's brief contends there was a single statute that defined "crime of violence" for existing law and thus the amendment to that law proposed by Initiative #30. *Id*. at 8 (pointing to *Busch v. Gunter*, 870 P.2d 586, 587 (Colo. App. 1993)). The Board states that this case stands for "interpreting 'crime of violence' in § 17-22.5-303.3 by reference to Title 16." Title Bd. Op. Br. at 8; *see id.* at 13 (statute that would be repealed and reenacted by #30 "defin[es] 'crime of violence' to have the same meaning as the term did in § 16-11-309(2)(a)(I)").

But elsewhere, the Board's Opening Brief contends that the title was clear and that the title correctly stated #30 applies to "any crime of violence." The Board states that this broader reference, using "any," was appropriate because "Proponents expressly agreed with the use of the word 'any'" to describe "crime of violence." Title Bd. Op. Br. at 15.

Considering those two representations in the Opening Brief, which were not made in the alternative, the Board seems to adhere to both of the conflicting views that were debated at rehearing: (1) one statutory definition of "crime of violence" applies to Initiative #30; and (2) all statutory definitions of "crime of violence" apply to Initiative #30.

The Board's back-and-forth position reflects the confusion that Proponents themselves brought to the rehearing. At one point, Proponents stated there was "a" definition of "crimes of violence" that applied to their measure, *see* Apr. 28, 2023, Rehearing before the Title Bd. ("Apr. 28 Rehr'g") at 1:53:44-47[2], and, in so doing, portrayed that a single statute would dictate their measure's reach, *see, e.g.*, *People v. Grosko*, 2021 COA 28, ¶31, 491 P.3d 484 ("a" refers to singular); Merriam-Webster's Collegiate Dictionary 1 (11th ed. 2008) ("a" is "used as a function word before singular nouns when the referent is unspecified"); 1 Oxford English Dictionary 4 (2d ed. 1989) ("a" is defined as referring to a singular object).

But as multiple, inconsistent statutory definitions of "crime of violence" became a more apparent problem for Board members, Proponents pivoted and asked that the title inform voters that parole would be restricted by commission of

[2] The recording of the hearing is available at https://csos.granicus.com/player/clip/380?view_id=1&redirect=true&h=f3edb0d245d9e3ef39dff06c33a3f99d

"any crime of violence" wherever defined by statute. Title Bd. Op. Br. at 15. And as noted above, on appeal, the Board uses Proponents' requested change to the title to justify its use of "any" as a modifier of "crime of violence." *Id*.

The truth is, like the Title Board members who confessed to confusion at the time of title setting, the Board in this appeal just doesn't know if there is only one such trigger for this new restriction or if there are several. And because it doesn't know—even now—the Board erroneously assumed jurisdiction over this matter to set titles. Where the Title Board confesses it cannot figure out what a measure really does, it lacks jurisdiction to set titles, and "the initiative[] cannot be forwarded to the voters." *In re Title, Ballot Title & Submission Clause, & Summary for Initiative 1999-2000 #44*, 977 P.2d 856, 858 (Colo. 1999).

In the Board's Opening Brief, it cites a decision from this Court to suggest that this entire issue of what is a "crime of violence" can float on a sea of uncertainty until there is post-election legislative and judicial construction to work through any lack of clarity. In so arguing, it points the Court to *In re Title, Ballot Title, & Submission Clause for 1997-1998 #75*, 960 P.2d 672, 673 (Colo. 1998). *See* Title Bd. Op. Br. at 7. In that case, the summary of the initiative used, but did not define, the term "nonexempt well." 960 P.2d at 673.

In *#75*, unlike this matter, there were clear statutory parameters around the phrase in question. As the Court observed there, the summary stated that the initiative applied to "any well not exempt pursuant to sections 37-93-601 and 37-92-602" of the Colorado Revised Statutes. *Id*. Thus, the Title Board in that case knew of and provided to voters specific statutory references so those voters could discern what this term meant.

More problematic for the Board's position on appeal, "non-exempt well" wasn't even used in the initiative before the Board in that twenty-five-year-old case. "**The term 'nonexempt well'** as used in the titles and the summary **is neither defined, nor does it even appear, in the Initiative itself.**" *Id*. (emphasis added.) Thus, "non-exempt well" was simply the Board's shorthand for a complex but known concept. It was not a phrase that was drawn from the initiative itself as one of that measure's defining features.

Of course, this situation is very different. The phrase "crime of violence," while not defined in #30, is its pivotal element. It appears in the measure and the titles multiple times. It is ***the*** legal construct that will prevent certain offenders from obtaining parole under current conditions or, potentially, at all.

As noted, the Board's answer is that the definition should "await future legislative and judicial construction and interpretation." Title Bd. Op. Br. at 7

(citing *#75, supra).* But this initiative does not propose some arcane regulatory scheme or special interest carve-out from the law. If adopted, Initiative #30 would cut short an essential liberty interest of all those affected. "The liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a 'grievous loss' on the parolee and often on others." *Morrissey v. Brewer*, 408 U.S. 471, 480 (1972) (citations omitted). Where liberty interests are at stake, something more is required than a promise that known ambiguities could be resolved in the future. Voters deserve that level of clarity when they are asked to alter fundamental rights.

Here, the Board admitted in public session it was confused about the reach of this measure. Its Opening Brief indicates an ongoing sense of confusion. Therefore, the Board erred in assuming jurisdiction over Initiative #30, and it should be returned to its Proponents for refinement and resubmission.

B. Reenacting the governor's appeal power in certain instances is a second subject.

1. The issue was preserved below.

The Title Board's Opening Brief argues that Objector, in her Motion for Rehearing, was "just wrong" that #30 gave the governor the power of parole where a "crime of violence" is committed by a repeat offender of certain crimes. Title Bd.

Op. Br. at 6. The Board points out that power is provided by current law and is not first created by #30.

The Board is absolutely right. In the Motion for Rehearing, the undersigned, Objector's counsel, erroneously treated amendments to existing law and reenactment of other provisions as both creating new law.

The Board also acknowledges that Objector corrected this error at rehearing by raising this issue during the rehearing. *See* Title Bd. Op. Br. at 6-7. As such, the issue was preserved for appeal, and the Court's ability to consider this single subject challenge is not seriously contested.

2. Initiative #30's reenactment of the governor's parole power was an unnecessary second subject, designed to draw support from voters who would otherwise oppose #30.

The Board's Opening Brief argues that the fact that #30 incorporates the governor's parole power is just a way of "affect[ing] the powers exercised by government under preexisting" law. Title Bd. Op. Br. at 9 (case citation omitted).

Initiative #30 repeals and reenacts the provision relating to the governor's power without changing a single word. It only renumbered the relevant subsection from (3) to (5). *Compare* R. at 5 (final text of #30) *with* R. at 22 (Proponents' Exhibit 1 at Rehearing). By reenacting this statute, the voters would reaffirm its applicability, a factor attractive to voters who seek leniency or flexibility in the

parole system. Of course, neither of those aspects is a hallmark of #30, which scales back parole for offenders who have been convicted of certain acts. The Board recognized that the repeal-and-reenact device created the situation where certain voters could support #30 to limit parole and other voters may support it because they would believe a "yes" vote was necessary to preserve the gubernatorial option for early parole for these offenders. *See* Pet. Op. Br. at 10-11.

This Court looks behind the gloss of the measure—its "high level of generality"—to evaluate if "the provisions served different purposes not sufficiently connected to constitute a single subject." *In re Titles, Ballot Titles, & Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, & #128*, 2022 CO 37, ¶ 19, 526 P.3d 927, 931 (citations omitted). The goal of the single subject requirement is to "prevent[] the proponents from combining multiple subjects to attract a 'yes' vote from voters who might vote 'no' on one or more of the subjects if they were proposed separately." *In re Title, Ballot Title & Submission Clause for 2019–2020 #315*, 2020 CO 61, ¶ 13, 2020 Colo. LEXIS 605 (citing *In re Title, Ballot Title & Submission Clause for 2013-2014 #76*, 2014 CO 52, ¶ 8, 333 P.3d 76, 79).

Here, the substantive parole limitations in #30 are designed to remove the discretion in decision making about certain offenders' length of incarceration. The

repeal-and-reenact of the governor's parole power in #30 without any substantive change to the law has no purpose other than to attract political support from persons otherwise inclined to vote "no" on the measure. These purposes are inconsistent with the single subject requirement.

The Board expressed concern that the repeal-and-reenact drafting device necessarily affected its single subject analysis. *See, e.g.*, Apr. 28 Rehr'g at 35:50-36:10; 37:33-39:30; 45:00-20; 49:30-50:00; 1:00:10-01:45. Once this dichotomy was recognized by the Board, the Board should have found it lacked jurisdiction to set titles. This Court should correct the Board's failure in this regard and order the return of #30 to Proponents.

II. THE TITLES ARE MISLEADING AND MUST BE CORRECTED.

A. The title used "crime of violence" even though it was a prohibited catch phrase.

1. This issue was preserved below.

The Title Board does not dispute this issue was preserved below. Title Bd. Op. Br. at 10.

2. The Board has not addressed whether this phrase will prejudice voter consideration of Initiative #30.

The Title Board argues that "crimes of violence" cannot be a catch phrase because it is merely descriptive, it is used in the measure, and it is used in existing

law. Title Bd. Op. Br. at 12. The case law that it cites for that proposition, *In the Matter of the Title, Ballot Title and Submission Clause for 2019-2020 #3 "State Fiscal Policy,"* 2019 CO 107, ¶ 29, dealt with the phrase, "Taxpayer's Bill of Rights." The Court held that it would not "trigger a favorable response, or bias voters." *Id.* Further, the phrase itself was not "emotionally laden" as it was simply "invoke[ing] the name of the constitutional provision to which the Proposed Initiative is directed." *Id.* at ¶ 30.

The facts underlying this measure are distinct from those in the case cited by the Board. In addition, there was undisputed, unrebutted evidence of voter reaction (and misperception) of language dealing with violent crime. *See* Pet. Op. Br. at 26-27. In its Opening Brief, the Board did not address that record evidence that was addressed, at length, before the Board and in the Motion for Rehearing. *See* R. at 12, 15-17, 18-21.

As to the Board's contention that "crimes of violence" is a term used in current law, that is true. Of course, as was established by the Motion for Rehearing and in Petitioner's Opening Brief, there are multiple, inconsistent meanings given to that phrase in statutes enacted by the General Assembly. There are additional extensions of those statutory provisions when that phrase has been considered by

the courts. It is not a term with a singular meaning. Even the Title Board members and Proponents struggled to comprehend the expanse of this term.

Importantly, the fine points of the Colorado Revised Statutes cannot be the test for how the public will react to the language of a title. The title "should enable the electorate, whether familiar or **unfamiliar with the subject matter** of a particular proposal, to determine intelligently whether to support or oppose such a proposal." *#315*, *supra*, 2020 CO 61, ¶ 25 (citation omitted) (emphasis added). Thus, as the Board chair made clear, the presence of this term of art in existing law does not mean the title is clear to voters whose information base is different than that of, for instance, legislators. *See* Pet. Op. Br. at 21.

Further, the fact that the initiative itself uses this phrase is no defense. Just because an initiative contains wording that will ignite voter passions doesn't mean the title must do so. "While we agree that the initiative contains this language, the Title Board is not free to include this wording in the titles if, as here, it constitutes a catch phrase." *In re Title, Ballot Title & Submission Clause, and Summary for 1999-2000 #258(A)*, 4 P.3d 1094, 1100 (Colo. 2000) (invalidating title because it used the initiative's phrase, "as rapidly and effectively as possible").

Thus, the fact that the measure uses words of a politically incendiary nature does not keep the Court from evaluating them in their own right. It should do so

here and find that the Board's concern with "crimes of violence" should have resulted in deletion of both, not just one, of the uses of this phrase as part of the title.

B. The Title Board failed to clarify "crime of violence" by modifying it with "not just those enumerated in this measure."

1. This issue was preserved below.

The Title Board does not dispute this issue was preserved below. Title Bd. Op. Br. at 11.

2. Initiative #30's obscure reference to "crimes of violence" is not clarified by the title's use of "not just those enumerated in this measure."

The Board's Opening Brief portrays the title's phrase, "not just those enumerated in this measure," as a clarification of the crimes of violence covered by the measure. *Id.* at 14. "The title's use of that phrase thus clarifies something that **may otherwise be confusing** to voters." *Id.* (emphasis added).

The Board acknowledges two important points. First, "crimes of violence" is a phrase that "may . . . be confusing to voters." Second, the wording that was used to try to cure this source of confusion provides voters with no concrete information and thus no clarity. As the Board points out, voters will be told that "'crimes of violence' **could** refer to other crimes than the ones listed in the title." *Id.* (emphasis added.) Not that it "does" refer to non-listed crimes. Just that it "could." Nor does

this modifying phrase give voters any clue about what parameters exist to identify the non-listed crimes.

Of course, the reason there are no such guardrails in the title is that the Board was left adrift by Proponents to know if those guardrails existed and what they were. The casting about by Proponents and Board members for clarity about this issue, though, came to naught. And so voters are left with a ballot title that provides no information about the extent or identity of "any crimes of violence" with one exception: the Listed Crimes are ***not*** the equivalent of this vague term.

It is no answer that the Board needed to be vague or elusive in the title because the measure was inherently unclear. Proponents' lack of specificity is no refuge for the Board:

> [W]e acknowledge that the title substantially tracks language found in the initiative itself and thus may faithfully express the initiative's intent. However, the source of a title's language does not rule out the possibility that the title could cause voter confusion…. In this case, **the title's muddled language causes confusion and does not help voters understand the effect of a "yes" or "no" vote even though it uses the initiative's own language.**

In re Title, Ballot Title & Submission Clause for 2015-2016 #156, 2016 CO 56, ¶ 15, 413 P.3d 151, 154 (emphasis added). Here, the initiative's own language is the undefined use of "crimes of violence." And the Board's attempt to provide

voters with a signal that it means something other than what is listed in the title adds nothing to voter understanding.

The Board's dilemma is not resolved by a best-efforts attempt to cope with obtuse initiative text. The only legally permitted resolution lies in ensuring the electorate will not have to guess what the initiative does when it reviews a vague title. Where "[v]oters reading this title would be forced to speculate about" what the measure changes in the law, "[t]his confusion would hinder voters from ascertaining the initiative's intent and thus would prevent them from intelligently choosing whether to vote 'yes/support' or 'no/against' on the initiative." *Id.* at ¶ 14. If voters are put in such a position, "the title set by the Title Board does not satisfy the clear title requirement." *Id.* at ¶ 16.

As the modifying phrase "not just those enumerated in this measure" fails to provide actual voter understanding, the Court must return the title to the Board.

C. The title used "any" to describe "crime of violence" even though the Board did not know if this was accurate.

1. Despite the Board's contention to the contrary, this issue was preserved below.

The Title Board disputes this issue was preserved below. Title Bd. Op. Br. at 14-15. Respondents, the proponents of #30, do not contest preservation of this issue in their Opening Brief. Resp. Op. Br. at 8-9.

The Board contends that no objection was lodged after it proposed the use of "any" during the rehearing. Specifically, "Petitioner did not argue that the word 'any' was problematic or contrary to the Proponents' intent." Title Bd. Op. Br. at 14-15.

The Board is incorrect that Objector failed to argue that the Board's description of "crimes of violence" was "problematic or contrary to the Proponents' intent." In fact, Objector did so throughout the Motion for Rehearing and at multiple points during the rehearing itself.

As a general objection to using "any" to describe crimes covered by the measure, Objector noted in her Motion for Rehearing that "any such crime" was "unclear and misleading." This phrase was corrected by the Board, but the point remained that "any such crime" was so vague as to fail to tell voters what was being addressed. This is exactly the failing of using "any crimes of violence."

Further, during the rehearing process, either by motion or by presentation to the Board, the problem with faulty description of which crimes would trigger the new restrictions on parole eligibility was highlighted often. For example:

- "The measure's use of undefined 'crimes of violence' is incomprehensible, and the Board cannot set a title for a measure that defies understanding." R. at 9.

- "It is also possible that 'crime of violence' under this measure means something entirely different from these existing (statutory and case law) definitions, given the measure's silence on the issue. Unfortunately, when perusing this title, voters won't know." R. at 11.

- "[T]hese statutory definitions are not the full extent of the legal meaning of 'crime of violence'…. Does the Title Board know if these (judicially recognized) crimes (of violence) are included in Initiative #30's reach? And will voters?" *Id.*

- "'[C]rimes of violence' is a phrase that has so many meanings and is so imprecise under this measure, a clear ballot title cannot be set…. If voters cannot know what they may be authorizing or prohibiting by a 'yes' vote – and here, they cannot – the Title Board necessarily will set a misleading ballot title." *Id.* at 11-12.

- "There are multiple statutory definitions of 'crime of violence.' They are all different." Apr. 28 Rehr'g at 24:18-29.

- "There are competing definitions. If you are a voter and you're trying to figure out what this means, you're hard-pressed to know, and I would suggest that is an inherent problem in the measure." *Id.* at 26:23-33.

- "Without that clarity about what is a crime of violence, the title that refers to 'crime of violence' is unknowable if you are a voter." *Id*. at 26:50-57.

After the "any" crimes of violence language was one of several title changes suggested by the Board chair, *id*. at 1:10:13, Proponents suggested adding the qualifier, "as defined by statute." At this point, Objector's counsel pointed the Board to the *Busch* decision from the Court of Appeals, a matter that had not been raised by Proponents or the Board members. In this regard, Objector noted, "for the record," that the Court identified its reliance on one of the statutory definitions

of "crimes of violence" for the statute to be amended by Initiative #30. *Id*. at 1:22:45-23:20.

Objector raised the ongoing issue of the breadth and gap in understanding of the title language under consideration, given the then-pending changes from the Board chair and Proponents:

> It seems to me you have the inherent issue that I raised before which is, **it no longer is clear what "crimes of violence" means**. And I think the Board is obviously struggling with that issue…. And any reference to "as defined in statute" seems to me to complicate the matter, because **"Which statute?" is the question, voters would reasonably ask**…. I don't see how you use "crimes of violence" when **you really don't know what it is that's being referred to** here because we haven't gotten that clarity from the Proponents either.

Id. at 1:23:30-1:24:40 (emphasis added).

At that point, Proponents, the Board chair, and Objector's counsel discussed the inconsistencies between the various statutory definitions. *Id*. at 1:24:45-27:00. Then, another Board member, highlighting these inconsistencies, suggested the language that is now found in the titles: "any crimes of violence not just those crimes enumerated in this measure." But he did so with the caveat that he did not know which statute would actually apply. And the Board chair good-naturedly joked, "But it's in there somewhere!" *Id*. at 1:27:25-59.

It is clear that Objector continuously objected to any description of crimes of violence when Proponents and the Board did not know what that actually meant.

These objections were made before and after "any" was being offered for the Board's consideration. For the Board in its Opening Brief to suggest it never was aware of a challenge to the expanse of this title (and thus was problematic and failed to reflect #30's "true intent and meaning") is at odds with the record.

In asking the Court to refuse to consider this matter, the Board's request is also contrary to precedent. The Board cites footnote 3 in *In re Proposed Ballot Initiative on Parental Rights*, 913 P.2d 1127 (Colo. 1996) in which the Court signaled for the first time that it would no longer consider ballot titling issues that had not been addressed below.

Utter silence before the Board on an issue is different than when the topic comes up in oral argument and is addressed by the Board. The Court will consider the Board's choice of title language, as where the Board removed the word "prohibit" from a title, if:

> Proponents orally raised the issue before the Title Board at the rehearing. Because the Title Board addressed this issue at the rehearing and thereafter amended the title…, and Petitioners raised this issue in their briefing to this court, this issue is now properly before us and we need not comment on the procedure below.

In re Title, Ballot Title and Submission Clause for 2013-2014 #90, 2014 CO 63, ¶ 33, 328 P.3d 155, 163 n.5.

As discussed herein, Objector repeatedly urged the Board to accurately describe the "crimes of violence" that would trigger the changes in parole eligibility under this measure. The Board used "any" to describe those crimes, even though it knew—from Proponents' themselves as well as through existing judicial interpretation that was first presented for Board consideration by Petitioner[3]—there was "a" statutory definition that controls this question. If any issue was thoroughly discussed before the Board, this one was it.

As such, the Court should consider the issue to have been preserved below and proceed to the merits of Petitioner's contention.

2. The Board erred by using "any" crime of violence.

As one Board member admitted in trying to identify what "crimes of violence" means for this measure, "we're not certain what that definition" is, and added, "I don't know what statute I'd look at" to get clarity about that meaning. Apr. 28 Rehr'g at 1:27:28-55.

Yet, the title says that ***any*** definition will apply. Which means, as the Petitioner's Opening Brief set forth, ***all*** of the statutory definitions of that phrase apply. Pet. Op. Br. at 19. The Board was made aware of case law, stating that a single definition applies. The Board discussed this issue, indicating only one was

[3] *See* Pet. Op. Br. at 14-15.

effective for the purposes of this initiative. But then the Board couched the issue for voters in the context of all definitions of "crimes of violence." This language choice expands the description of the measure beyond the Board's own understanding of the measure. That is plain error. If a title misstates a key element of an initiative, the title will mislead voters. *In re Title, Ballot Title and Submission Clause, and Summary for Initiative 1999-2000 #215*, 3 P.3d 11, 16 (Colo. 2000). Thus, the Board's decision must be reversed.

CONCLUSION

For the reasons set forth above, the Title Board's decision should be reversed with appropriate instructions to the Board to either return Initiative #30 to its proponents or to correct the language of the titles.

Respectfully submitted this 14th day of June, 2023.

s/ Mark G. Grueskin
Mark G. Grueskin, #14621
Nathan Bruggeman, #39621
RECHT KORNFELD, P.C.
1600 Stout Street, Suite 1400
Denver, CO 80202
Phone: 303-573-1900
Facsimile: 303-446-9400
mark@rklawpc.com
nate@rklawpc.com

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I, Kate Sorice, hereby affirm that a true and accurate copy of the **PETITIONER'S ANSWER BRIEF** was sent electronically via Colorado Courts E-Filing this day, June 14, 2023, to the following:

Counsel for the Title Board:
Michael Kotlarczyk
Office of the Attorney General
1300 Broadway, 6th Floor
Denver, CO 80203

Counsel for Proponents:
Suzanne Taheri
West Group
6501 E. Belleview Ave, Suite 375
Denver, CO 80111

/s Kate Sorice