

IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

SEP 1 2004

In Re )  
LEGISLATIVE REFERENDUM )  
NO. 334, STATE QUESTION 711 )

Case No. 101136

MICHAEL S. RICHIE  
CLERK

**THE HONORABLE JAMES A. WILLIAMSON AND HONORABLE THAD BALKMAN'S MOTION TO INTERVENE AS PARTIES OBJECTING TO PETITIONER'S CHALLENGE OR IN THE ALTERNATIVE, FILE AN AMICUS CURIAE BRIEF AND REQUEST FOR EXPEDITED CONSIDERATION**

COME NOW the Honorable State Senator, James A. Williamson and The Honorable Representative, Thad Balkman (hereafter referred to as "Interveners"), in support of their Motion to Intervene, or in the alternative to file an Amicus Curiae Brief and would state the following to wit:

1. That the Honorable James A. Williamson is the Oklahoma State Senator representing District 35, which is based in Tulsa, Oklahoma. He was the principal author in the Oklahoma Senate of the amendment to House Bill 2259 that included Legislative Referendum No. 334, State Question 711.

2. That the Honorable Thad Balkman is the Oklahoma State Representative representing District 45, based in Norman, Oklahoma. He supported the passage of House Bill 2259 and the submission of Legislative Referendum No. 334, State Question 711, to a vote of the people of Oklahoma.

3. That Williamson and Balkman, in addition to their status as members of the Oklahoma Legislature, both are Oklahoma voters and taxpayers. Accordingly, the Interveners have standing in the instant litigation to oppose the request to stop the vote on State Question 711.

4. That Interveners, Williamson and Balkman, seek to vindicate their constitutional right guaranteed by the Oklahoma Constitution Art. 5 §1 to have a referendum to amend said

Constitution; the right to have a referendum on amending the Constitution has been deemed to be "precious" and one which the Courts are to "zealously" preserve. Interveners oppose the petitioners' attempt to circumvent the democratic election process.

5. That Interveners, Williamson and Balkman, believe Legislative Referendum No. 334, State Question 711, is essential in order for the people of Oklahoma to defend the institution of marriage and the rights of children to be nurtured and developed within a marriage relationship of a mother and a father. Legal opinions of out of state judiciary should not be allowed to affect the institution of marriage in Oklahoma.

6. That the Petitioners, in their application to this Court to assume original jurisdiction, have attacked the legislative process that enacted HB 2259 on the grounds that the legislative process creating the Legislative Referendum was "defective". Interveners, Williamson and Balkman, due to their official status as state legislators, seek to defend the internal legislative process and assert the right to be free of judicial interference from scrutinizing the validity of the legislative process and procedures under the "Separation of Powers Doctrine" recognized in the Oklahoma Constitution. Art. IV Section 1.

7. Since the Petitioners have questioned the validity of the legislative process, Interveners, Williamson and Balkman, believe these allegations constitute an extraordinary cause that would give them standing to appear for oral argument in this matter to protect their interests as members of the legislators, to ensure that the legal analysis of this case does not encroach upon the legislative prerogative to control its own internal functions with respect to the submission of State Question 711 to a vote of the people.

8. That Interveners, Williamson and Balkman, seek to vindicate their constitutional rights guaranteed under the United State Constitution to a "Republican Form of Government". U.S. Constitution Art. IV Section 4.

9. That the Interveners, Williamson and Balkman, have an interest in demonstrating to the Court that the legislative initiative in all respects, passes constitutional muster and has but one subject matter - the definition of marriage, which in effect is brought about to defend the institution of marriage as it has been known from time immemorial and since the inception of statehood.

10. Interveners will submit legal authority demonstrating that the State Question 711 is not constitutionally void for vagueness, contrary to the Petitioner's arguments and is presently a non-justiciable issue.

11. That Interveners will submit authority that the Petitioners are barred from bringing an action, because their Petition was not timely filed with this Court.

12. Finally, Interveners, Williamson and Balkman, would like to have the opportunity to demonstrate to the Court that Petitioner's arguments that State Question 711 violates equal protection and due process, are presently non-justiciable issues and call for an advisory opinion. In the alternative however, the Court finds that the substantive constitutionality of the question is ripe and at issue, the Interveners would demonstrate that the question is indeed constitutional.

13. That this Court has set a hearing for September 8, 2004, and a briefing response date of September 7, 2004.

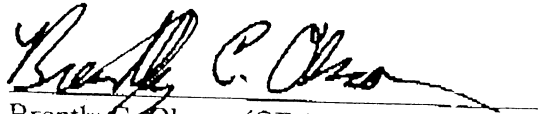
14. That the Interveners request that the Court give expedited consideration to their Motion to Intervene as parties, and submit a brief and participate in the hearing on September 8, 2004.

WHEREFORE, above premises considered, Interveners, Honorable James Williamson and Honorable Thad Balkman, pray that the Court gives them leave to intervene as party respondents in this matter and appear for oral argument on September 8, 2004, or in the alternative, the Court grant them leave to orally argue by Amicus Curiae and submit Amicus Curiae briefs on the legal issues of this matter; Interveners additionally pray the Court give expedited consideration of their Motion in light of the rapid approval of deadlines in this case.

Respectfully submitted,

HUCKABY, FLEMING,  
GREENWOOD & OLSSON, L.L.P.

By:



Brently C. Olsson (OBA 12807)  
1215 Classen Drive  
P. O. Box 60130  
Oklahoma City, OK 73146  
(405) 235-6648  
(405) 235-1533 (fax)  
Attorneys for Defendant

**CERTIFICATE OF MAILING**

I hereby certify that a true and correct copy of the within and foregoing was mailed this 1st day of September, 2004 to the following:

Mark Henriksen  
Henricksen & Henricksen, Lawyers Inc.  
210 North Choctaw  
P.O. Box 1119  
El Reno, OK 73036

William B. Rogers  
7004 N. Ross Avenue  
Oklahoma City, OK 73116

Tina L. Izadi  
Staff Attorney - American Civil Liberties  
Union of Oklahoma  
3000 Paseo  
Oklahoma City, OK 73103

Drew Edmondson, Esq.  
Attorney General, State of Oklahoma  
112 State Capitol Building  
2300 North Lincoln Blvd.  
Oklahoma City, OK 73105-4894

