

COLORADO SUPREME COURT

2 East 14th Avenue
Denver, CO 80203

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Original Proceeding
Pursuant to Colo. Rev. Stat. § 1-40-107(2)
Appeal from the Ballot Title Setting Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative
2024-2025 #240 (“Congressional Redistricting”)

▲ COURT USE ONLY ▲

Petitioner:

Wayne Williams

v.

Respondents:

Tanya Nathan and Lindsey Rasmussen,
Designated Representatives

and

Colorado Ballot Title Setting Board:
Michael Dohr, Theresa Conley, and Kurt
Morrison

Attorney for Petitioner:

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Case Number: 26SA126

PETITIONER’S ANSWER BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all the 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).

Choose one:

It contains xxxx words.

It does not exceed 30 pages.

The brief complies with C.A.R. 28(k):

It contains under a separate heading a concise statement of the applicable standard of appellate review with citation to authority.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

/s/ Wayne Williams
Wayne Williams
Attorney for the Petitioner

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Wayne Williams (“Petitioner”) respectfully submits this Opening Brief regarding Proposed Initiative 2025-2026 #240 (“Congressional Redistricting”).

ARGUMENT

A. Initiative #240 does not contain a single subject.

The initiative inserts a new subsection into Section 44 or article V of the Colorado Constitution. That section does three things. It establishes the new temporary maps, it establishes a Supreme Court review process and it mandates that the current redistricting commission “shall continue” to draw maps in 2031 and every 10 years after. The third prong is not connected to the establishment of the new maps.

This Court has previously found that “when provisions seeking to accomplish one purpose are coupled with provision proposing a change in governmental powers that bear no necessary or properly connection to the central purpose of the initiative, the initiative violates the single-subject rule.” *Howes v. Brown*, 235 P.3d 1071, 1077 (Colo. 2010).

Here the first subject is adopting new maps and the second subject is directing the redistricting commission to continue it’s process in 2031. The continuation of its work is not connected to the temporary map and is an attempt to logroll the two together.

B. The title for Initiative #240 does not adequately describe the measure.

The Title Board appears to concede that the title does not adequately describe the measure. They argue that it would be impossible to describe the map. *Title Board Opening Brief, p. 11.* Yet, they do not offer any explanation for why the Board could not at the very least summarize proponent's stated purpose for adoption: to draw maps to benefit one party. They further argue that the problem was, "further exacerbated by its knowledge that several other redistricting proposals were being submitted." *Title Board Opening Brief, p. 12.* The solution to this problem is not to write a ballot title that gives no information. The solution is to distinguish the ballot titles. A description must afford voters enough information to vote yes or no--one set of maps is to benefit Democrats and the others have a different specified purpose.

The Title Board concludes by asserting that the low-resolution map itself is the "best indication" and is should be left for the Blue Book. *Id.* But this map is so poor that many voters along the Front Range would have no idea which district they would live in under the proposed map.

Even if one could determine a home's location on the map, the title and submission clause should allow voters, whether or not they are familiar with the subject matter of a particular proposal, to determine intelligently whether to

support or oppose the proposal. *Cordero v. Leahy (In re Title, Ballot Title & Submission Clause for 2013-2014 #90)*, 328 P.3d 155, 162 (Colo. 2014). The Board is bound by statute, "[i]n setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a 'yes/for' or 'no/against' vote will be unclear." § 1-40-106(3)(b), C.R.S. (2025).

Here, the general understanding of the effect is unknown to the voters. If the Board believed the map to be the best description they could have included it with the Title.

But even with a map in front of voters they may not understand the purpose of the map. As argued in Petitioner's opening brief, the title looks like this is a simple clean up measure and voters unfamiliar with the debate will have no information to the contrary.

"The titles, standing alone, should be capable of being read and understood, and capable of informing the voter of the major import of the proposal, but need not include every detail. *Garcia v. Montero (In re Ballot Titles 2001-2002 #21 & #22)*, 44 P.3d 213, 222 (Colo. 2002) A title so general that it does not allow a voter to understand the effect of a "yes/for" or "no/against" vote does not satisfy the clear title requirement. See § 1-40-106(3)(b), C.R.S. (2025). *Hayes v. Spalding (In re*

Title, Ballot Title & Submission Clause for 2015-2016 #73), 369 P.3d 565, 568-71 (Colo. 2016).

This title is far more deficient than the one the Court struck down in proposed initiative 2013-2014 #73:

An amendment to the Colorado constitution concerning recall of elective officials, and, in connection therewith, specifying recall and successor election procedures for state and local elective officials; stating that recalled officials shall not be any official for six years; restricting recall from the same office for an official who has already defeated a recall effort; requiring opposition donations and spending to continue to be public records; and prohibiting identification, reporting, or limitation of donations to recall campaigns and payments to recall petition circulators.

The Court found that without a description of the procedures there is not sufficient information to allow voters to determine intelligently whether to support or oppose the proposal. *Id.*

The Court further emphasized this was particularly true when the initiative proposes to alter existing procedures significantly. The same is true here. There is an extensive redistricting process with guardrails for transparency and public participation. Yet, proponents seek to upend that process significantly by disregarding the criteria and adopting maps with no public input.

The title also fails to describe the impact on election beyond congressional redistricting. In fact, the title is misleading in this respect as it mentions

congressional six times leading the voter to believe this is the only impact.

Finally, Respondents attempt to excuse the omission from the title of the blatant disenfranchisement of voters in Board of Education and Regent races because this happens to a lesser extent whenever redistricting occurs. Nowhere in the title is this effect even mentioned – nor is the disenfranchisement the same.

The United States Supreme Court held in *Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964), that “The command of Art. I, § 2 that Representatives be chosen "by the People of the several States" means that, as nearly as is practicable, one man's vote in a congressional election is to be worth as much as another's.” The *Wesberry* decision and the subsequent case law therefore *requires* redistricting following each decennial census.

The midcycle redistricting proposed by the proponents, however, is not constitutionally mandated. Indeed, its disenfranchisement of voters violates their very right to vote. Even if this disenfranchisement were legal, it is imperative that voters be informed of this effect.

CONCLUSION

As set forth above and in Petitioner’s Opening Brief, Initiative 240 fails to set forth a single subject and the adopted title fails to adequately inform voters of the initiative’s effects. Petitioner therefore respectfully requests that this Court

strike the initiative, or remand the matter to the Title Board to set an appropriate title.

Respectfully submitted May 6, 2026.

s/ Wayne Williams
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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of May, 2026, a true and correct copy of the **PETITIONER'S ANSWER BRIEF** was served via the Colorado Court's E-Filing System to the following:

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