

Cite as 2019 Ark. 165

**SUPREME COURT OF ARKANSAS**

No. CV-19-92

ARKANSAS TRUE GRASS, A  
BALLOT QUESTION COMMITTEE  
PETITIONER

V.

LESLIE RUTLEDGE, ATTORNEY  
GENERAL OF THE STATE OF  
ARKANSAS

RESPONDENT

Opinion Delivered May 23, 2019

AN ORIGINAL ACTION

PETITION DISMISSED AS MOOT.

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**PER CURIAM**

Petitioner, Arkansas True Grass, a Ballot Question Committee, petitions this court for an order compelling Arkansas Attorney General Leslie Rutledge to certify the popular name and ballot title of a proposed amendment to the Arkansas Constitution entitled “The Arkansas Recreational Marijuana Amendment of 2020.” In her response to the petition, the Attorney General asks that the action be dismissed in light of the Arkansas General Assembly’s recent enactment of Act 376 of 2019 (Act 376). We agree that Act 376 renders the original-action petition moot because Act 376 eliminated the requirement that sponsors of initiative petitions obtain the Attorney General’s certification of the proposed amendment’s popular name and ballot title prior to circulation of the initiative petition. Therefore, we dismiss the petition as moot.

Rule 6-5 of the Rules of the Supreme Court and Court of Appeals governs the procedure of original actions filed in this court. Under Rule 6-5(b), “the procedure will conform to that prevailing in bench trials in the circuit courts.” When fact-finding is

necessary, the court appoints a special master to preside over the trial, and the parties brief the case to the court following the filing of the special master’s report. Ark. Sup. Ct. R. 6-5(c). When an original action presents only questions of law such that fact-finding is unnecessary, no special master is needed, and such matters are generally submitted to the court following briefing of the issues by the parties. *Id.* at 6-5(d). In this case, however, neither the appointment of a special master nor the filing of briefs is necessary because it is apparent from the pleadings that the matter is moot.

According to Arkansas True Grass’s January 29, 2019 original-action petition, Arkansas True Grass is a ballot-question committee registered with the Arkansas Ethics Commission.<sup>1</sup> Arkansas True Grass further alleges that it has sponsored proposed constitutional amendments regarding the legalization of marijuana and has submitted several proposed amendments to the Attorney General for approval of popular names and ballot titles prior to the 2016 and 2018 elections. Although one such submission was ultimately certified by the Attorney General, Arkansas True Grass alleges it was unable to gather the required number of signatures within time for placement of the amendment on the 2016 election ballot. Arkansas True Grass alleges that since then, it has been unable to obtain the

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<sup>1</sup>We note that the signature block on the petition identifies the petitioner as “Arkansas True Grass c/o Mary L. Berry.” However, it appears that Ms. Berry is not licensed to practice law in Arkansas. Thus, to the extent that Ms. Berry is attempting to represent an entity other than herself, there may be unauthorized-practice-of-law issues that call into question the validity of the original-action petition. *See DeSoto Gathering Co. LLC v. Hill*, 2017 Ark. 326, at 8, 531 S.W.3d 396, 402 (“We have repeatedly held that when a person not licensed to practice law in this state attempts to represent the interests of another by submitting himself or herself to the jurisdiction of a court, the pleadings filed by that person are rendered a nullity.”).

Attorney General's certification despite over thirty attempts to do so. On November 27, 2018, the Attorney General issued letter opinion No. 2018-138 rejecting the popular name and ballot title of "The Arkansas Recreational Marijuana Amendment of 2020" sponsored by Arkansas True Grass. In its prayer for relief, Arkansas True Grass asks this court to "require that the Respondent certify the proposed measure attached in Opinion # 2018-138 in 3 days."

The Attorney General responded to the original-action petition on March 14, 2019. In her response, the Attorney General asks us to dismiss the petition as moot in light of the passage of Act 376. She argues that Act 376 removed the Attorney General's authority to approve popular names and ballot titles for initiative petitions and that sponsors now need only file a draft of the proposed amendment, popular name, and ballot title with the Secretary of State before circulating the petitions for signatures. Thus, the Attorney General argues that if we were to order her to certify the proposed popular name and ballot title as Arkansas True Grass asks us to do, it would have no practical legal effect on the parties because the Attorney General's certification is no longer required. We agree.

Prior to Act 376, sponsors of proposed amendments were required to submit the proposed amendment, popular name, and ballot title to the Attorney General for approval before circulating the petition. Ark. Code Ann. § 7-9-107(a) (Repl. 2018). And anyone who felt aggrieved by the Attorney General's refusal to act on or to certify a proposal was authorized to petition this court for relief. *Id.* § 7-9-109(d). Act 376, however, amended section 7-9-109.

According to its emergency clause, Act 376 “appl[ies] to all petitions circulated after the passage of the act,” and the Act became effective on March 8, 2019, upon the Governor’s approval. 2019 Ark. Acts 376, § 14. As amended by Act 376, Arkansas Code Annotated section 7-9-107 no longer requires sponsors to obtain any certification from the Attorney General. *Id.* § 6. Instead, sponsors are required to file the proposed amendment, popular name, and ballot title with the Secretary of State, and sponsors may begin circulating an initiative petition upon receipt of a copy bearing the Secretary of State’s file-mark. *Id.* Act 376 also removed from the statute subsection (d), which provided that those aggrieved by the Attorney General’s refusal to certify may seek relief from this court.

Except under narrow exceptions not applicable here, this court does not decide cases that are moot. *See Zook v. Martin*, 2018 Ark. 304, at 2. An issue is moot when a decision by this court would have no practical effect on a then existing legal controversy. *Lange v. Martin*, 2016 Ark. 363, at 2. Because sponsors of initiated amendments are no longer required to obtain the Attorney General’s certification of popular names and ballot titles prior to circulation of initiative petitions, Arkansas True Grass’s request that we compel the Attorney General to certify “The Arkansas Recreational Marijuana Amendment of 2020” is moot as the Attorney General’s certification would have no practical legal effect on the parties. Therefore, we dismiss the original-action petition.

Petition dismissed as moot.

*Leslie Rutledge*, Att’y Gen., by: *Jennifer L. Merritt*, Sr. Ass’t Att’y Gen., for respondent.