

IN THE SUPREME COURT OF ARKANSAS

Ronald A. May, Susan E. May, and  
Gayle Bradford

PETITIONERS

vs.

NO. \_\_\_\_\_

CHARLIE DANIELS, in his official  
capacity as Secretary of State  
of the State of Arkansas

RESPONDENT

ORIGINAL ACTION PETITION

Petitioners Ronald A. May, Susan E. May, and Gayle Bradford, for their Original Action  
Petition against Charlie Daniels, in his official capacity as Secretary of State of the State of  
Arkansas, state:

1. This is an original action filed in this Court pursuant to Amendment 7 of the  
Constitution of Arkansas and Rule 6-5 of the rules of this Court.
2. Susan E. May and Ronald A. May are citizens of the State of Arkansas and residents  
of Pulaski County. They are both registered voters. Mr. May, who is 75, is a veteran and an  
attorney who helped found the American Cancer Research Center; Ms. May is retired from the  
airline industry and is active in organizations promoting gay rights. They have been married 29  
years. Two members of their family are gay. The Mays are concerned that all Arkansas voters  
be given a clear and impartial description of how a proposed amendment to the Constitution of  
the State of Arkansas, bearing the popular name "An Amendment Concerning Marriage"  
("Proposed Amendment 3"), would affect gay Arkansans and other citizens of Arkansas. They  
believe that the popular name and ballot title of Proposed Amendment 3 do not give this clear  
and impartial description.
3. Under Article 9, section 3 of the Arkansas Constitution, the Mays have homestead  
rights. They are concerned that the popular name and the ballot title of Proposed Amendment 3

do not give Arkansas voters notice that this constitutional protection for homestead rights would be repealed.

4. Petitioner Gayle ("Bill") Bradford, who is 76, is a citizen of the State of Arkansas, a resident of Pulaski County and a registered voter. He is gay. His partner of 53 years, Herbert Kiecker, recently died. Mr. Bradford is a veteran, as was Mr. Kiecker. Mr. Bradford and Mr. Kiecker never wanted to be married. However, if Arkansas had recognized the relationships of same-sex couples, private employers might have been encouraged to extend benefits to domestic partners, including the right to continue receiving pension benefits after the covered employee dies. Considered a legal stranger, Mr. Bradford lost a significant amount of the income that he and Mr. Kiecker shared when Mr. Kiecker died. Official recognition would also have enabled Mr. Bradford the comfort of being interred next to his partner in the veteran's cemetery. Given the total lack of recognition for their relationship, the cemetery refused to hold a spot open for him.

5. Charlie Daniels is the duly elected, qualified and acting Secretary of State of the State of Arkansas and the ex officio Secretary of the State Board of Election Commissioners.

6. On or about March 12, 2004, Respondent declared the sufficiency of and certified to place on the ballot for the November 2, 2004 General Election Proposed Amendment 3. A copy of Respondent's certification is attached to this Original Action Petition as Exhibit A.

7. An accurate copy of the ballot petition, including the popular name, ballot title and text of Proposed Amendment 3, without signatures, is attached to this Original Action Petition as Exhibit B.

8. This Court has original jurisdiction pursuant to Amendment 7 of the Arkansas Constitution to review the sufficiency of the initiative petition of Proposed Amendment 3 as to the sufficiency of the ballot title and popular name.

9. The petition is insufficient as the popular name, the ballot title and even the text of the amendment itself, fail to enable a voter reading the ballot in the voting booth and relying on it for information to make an intelligent choice and to inform him/her of the consequences of his/her vote. The popular name and the ballot title are insufficient and misleading in numerous respects including, but not limited to, the following: The ballot title and the popular name are misleading in that voters are led to believe Proposed Amendment 3 addresses only same-sex marriage. However, under the terms of Proposed Amendment 3, not only will same-sex marriage be affected but same-sex couples may be denied all existing and future forms of legal recognition for their relationships, including "civil unions" or "domestic partnerships." The ballot title fails to identify legal arrangements that would be rendered invalid by the Amendment; it fails to convey the current situation concerning the validity of common law marriage in this state of Arkansas; it fails to convey which forms of legal status enjoyed by unmarried people will be invalidated because married people also enjoy them; and it fails to convey the extent of the power that will be conferred on the Legislature to regulate and control the institution of marriage in this state.

WHEREFORE, Petitioners pray that the Court: (1) declare the popular name and ballot title of Proposed Amendment 3 insufficient and enjoin the Secretary of State from placing it on the ballot for the November 2, 2004 General Election; (2) order that any ballots cast under any circumstances prior to the withdrawal of Proposed Amendment 3 not be counted; and (3) award them all other relief to which they are entitled.

By \_\_\_\_\_

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