

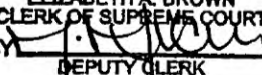
IN THE SUPREME COURT OF THE STATE OF NEVADA

DONNA WASHINGTON, AN  
INDIVIDUAL; AND COALITION FOR  
PARENTS AND CHILDREN, A  
POLITICAL ACTION COMMITTEE,  
Appellants,  
vs.  
NEVADANS FOR REPRODUCTIVE  
FREEDOM, A POLITICAL ACTION  
COMMITTEE; AND FRANCISCO V.  
AGUILAR, IN HIS OFFICIAL  
CAPACITY AS NEVADA SECRETARY  
OF STATE,  
Respondents.

No. 88144

**FILED**

OCT 09 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying declaratory or injunctive relief in an election matter. First Judicial District Court, Carson City; James Todd Russell, Judge.

Respondent Nevadans for Reproductive Freedom (NRF) seeks to place an initiative on the ballot that would amend the Nevada Constitution to recognize a fundamental right to abortion. NRF included the following description of effect on the signature pages for the proposed initiative:

If enacted, this initiative would add a new section to Article 1 of the Nevada Constitution establishing a fundamental, individual right to abortion. This initiative enables individuals to make and carry out decisions about matters related to abortion without interference from state or local governments.

If this measure is enacted, the State still may regulate provision of abortion after fetal viability, which is defined in the measure, except where

necessary to protect the life or health of the pregnant individual.

Appellants Donna Washington and Coalition for Parents and Children (collectively, Washington) challenged the initiative in the district court arguing that the initiative's description of effect is legally insufficient, and that the initiative includes an unfunded mandate. The district court rejected Washington's claims and denied the request to enjoin respondent Secretary of State from placing the initiative on the 2024 ballot. Washington appealed.<sup>1</sup>

Reviewing the district court's decision de novo, we conclude that the description of effect is legally sufficient. *See Helton v. Nev. Voters First PAC*, 138 Nev. 483, 486, 512 P.3d 309, 313 (2022) (providing that this court reviews a challenge to an initiative de novo when the district court resolved the challenge in the absence of any factual dispute). The description of effect states the initiative's purpose, to establish a constitutional right to abortion, and how that purpose is to be achieved, through a constitutional amendment. *See id.* at 491, 512 P.3d at 317 (explaining that a description of effect must address the effect "the initiative petition is designed to achieve" (internal citations and quotation marks omitted)). The description of effect is, as required, straightforward, succinct, and nonargumentative. *See Las Vegas Taxpayer Accountability Comm. (LVTAC) v. City Council of City of Las Vegas*, 125 Nev. 165, 183, 208 P.3d 429, 441 (2009). Further, most of the issues Washington feels should have been addressed in the description of effect need not be included because they do not go to the

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<sup>1</sup>While the Secretary of State was listed as a defendant below and is included as a respondent on appeal, the Secretary of State did not file an answer and took no position on the matter at the hearing and has filed an answering brief that takes no position.


initiative's primary goal. See *Nevadans for Reprod. Freedom v. Washington (NRF I)*, 140 Nev., Adv. Op. 28, 546 P.3d 801, 808-09 (2024) ("The court cannot, after the fact, conclude that the description of effect must discuss certain potential issues when the proponents do not allege that the primary goal of the initiative petition was to address those potential issues."). Lastly, to the extent Washington contends the description of effect fails to inform signatories about the current state of the law regarding abortions in Nevada, there is no requirement that a proponent address the current state of the law regarding the subject issue in the description of effect. Thus, we conclude the district court properly concluded that the description of effect is legally sufficient.

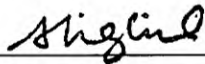
We also conclude that Washington failed to demonstrate that the initiative violates Nevada Constitution Article 19, Section 6. See *Helton*, 138 Nev. at 492, 512 P.3d at 318 (providing that the challenger has the burden to demonstrate that an initiative is an unfunded mandate). That provision precludes initiatives from making appropriations or requiring an expenditure of money without imposing a sufficient tax to cover the costs. Nev. Const. art. 19, § 6. An initiative violates that provision when it "leaves budgeting officials no discretion in appropriating or expending the money mandated by the initiative," requiring a budgeting official to make the appropriation or expenditure without considering other financial issues. *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890, 141 P.3d 1224, 1233 (2006).

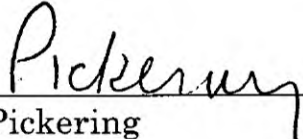
The initiative here does not require an appropriation or expenditure of money by its plain language and does not require the State to pay for or provide abortions. Instead, the initiative creates a fundamental right to an abortion and precludes the State from regulating

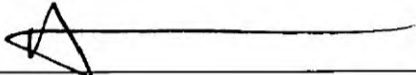
abortions before fetal viability. To the extent Washington contends the State would have to pay for abortions to avoid an unconstitutional-conditions claim against the State, it is unclear whether any such claim would ever be filed and Washington concedes that unconstitutional-conditions claims have generally not been applied in this way. Thus, the district court properly concluded that the initiative does not implicate Article 19, Section 6 of the Nevada Constitution. Accordingly, we


ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, C.J.  
Cadish

  
\_\_\_\_\_, J.  
Stiglich

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Herndon

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Bell

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<sup>2</sup>The Honorable Patrica Lee, Justice, voluntarily recused herself from participation in the decision of this matter.

cc: Hon. James Todd Russell, District Judge  
Guinasso Law, LTD/Reno, NV  
Attorney General/Carson City, NV  
Bravo Schragar, LLP/Las Vegas, NV  
Elias Law Group LLP/Wash DC  
Carson City Clerk