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**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY**

Case No. DV-56-2025-966-DK

AMY REGIER and MONTANA LIFE DEFENSE
FUND,

Petitioners,

v.

STATE OF MONTANA,

Respondent,

and

DOCTOR SAMUEL DICKMAN, PLANNED
PARENTHOOD ADVOCATES OF MONTANA,
ACLU of MONTANA, and FORWARD
MONTANA.

Intervenors.

**ORDER GRANTING INTERVENORS'
MOTION TO DISMISS**

Before the Court is Intervenors Dr. Samuel Dickman, Planned Parenthood Advocates of Montana, ACLU of Montana, and Forward Montana’s Renewed Motion to Dismiss Under Rule 12(b)(6). (Dkt. 7). On October 7, 2025, Petitioners filed an Amended Complaint for Declaratory Relief arguing that because the ballot used in the November 2024 general election did not include the full policy text of the initiative, it violated Article XIV, Section 9(3) of the Montana Consitution and should therefore be declared null and void. (Dkt. 6). This action follows the earlier Petition for Original Jurisdiction, which was denied by the Montana Supreme Court. *See Rhodes v. State* No. OP 25-0408(July 1, 2025), 2025 LX 231908. The Court has reviewed the

1 filings and now deems the issue ripe of decision.

2 **BACKGROUND**

3 On November 5, 2024, Montana voters approved CI-128 with 345,070 votes in favor of
4 the amendment and 252,300 opposed. On June 9, 2025, Montana Life Defense Fund and two
5 individual petitioners filed an original proceeding in the Montana Supreme Court asking the Court
6 to declare CI-128 null and void. Petitioners’ argument was primarily that the rights of individual
7 petitioners and other election-day registrants were violated because the ballot did not include the
8 full text of CI-128, depriving them of a meaningful opportunity to analyze and evaluate the
9 language of the proposed amendment. In addition, Petitioners argued that this violated the
10 Montana Constitution’s requirement to submit the full text of constitutional initiatives to the
11 voters for approval or rejection.
12

13 The Montana Supreme Court ultimately denied Petitioner’s petition, noting Petitioner did
14 not demonstrate urgency or emergency factors make litigation in the trial courts and the normal
15 appeal process inadequate, and they did not develop facts necessary to support its legal
16 arguments. *Rhodes*, 2025 LX 231908 at *10. While the initial complaint to the Montana Supreme
17 Court also addressed the issue of election-day registrant rights, the issue before this Court solely
18 focuses on the legal argument that the Montana Constitution requires the full text of a
19 constitutional provision to be printed on the ballot.
20

21 **LEGAL STANDARD**

22 In reviewing a motion to dismiss pursuant to Rule 12(b)(6), M.R.Civ.P., courts must
23 consider the complaint in the light most favorable to the plaintiff and accept the allegations in the
24 complaint as true. *Goodman Realty, Inc. v. Monson*, 267 Mont. 228, 883 P.2d 121 (1994). A
25 complaint should not be dismissed for failure to state a claim unless it appears beyond a doubt
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1 that the plaintiff can prove no set of facts in support of his claim which would entitle relief.
2 *Boreen v. Christensen*, 884 P.2d 761, 762, 51 Mont. St. Rep. 1014, 1015 (quoting *Wilson v.*
3 *Taylor*, 194 Mont. 123, 126, 634 P.2d 1180, 1182). All that needs to be shown to survive a
4 motion judgement for failure to state a claim is that there is a set of facts under which a claimant
5 could recover. *Id.* "In other words, dismissal is justified only when the allegations of the
6 complaint itself clearly demonstrate that plaintiff does not have a claim." *Wheeler v. Moe*, 163
7 Mont. 154, 515 P.2d 679 (1973).
8

9 ANALYSIS

10 The Montana Constitution provides specific guidelines for the consitutional process for
11 submitting a proposed constitutional amendments to voters. Subsection 3 of Article XIV, Section
12 9 of Montana Constitution allows the people the right to propose constitutional amendments by
13 initiative and states the following:

- 14 (1) The people may also propose constitutional amendments by initiative. Petitions
15 including the full text of the proposed amendment shall be signed by at least ten
16 percent of the qualified electors of the state. That number shall include at least ten
17 percent of the qualified electors in each of two-fifths of the legislative districts.
- 18 (2) The petitions shall be filed with the secretary of state. If the petitions are found to have
19 been signed by the required number of electors, the secretary of state shall cause the
20 amendment to be published as provided by law twice each month for two months
21 previous to the next regular state-wide election.
- 22 (3) At that election, **the proposed amendment shall be submitted to the qualified
23 electors for approval or rejection.** If approved by a majority voting thereon, it shall
24 become a part of the constitution effective the first day of July following its approval,
25 unless the amendment provides otherwise.

26 Mont. Const. art. XIV, § 9 (emphasis added).

27 The Montana Supreme Court analyzed Subsection 2 when this case was before them and
28 outlined all of the statutory requirements the Secretary of State must follow in order for

1 Subsection 2 to be satisfied. *See Rhodes*, 2025 LX 231908 at *4-7. Notably, the Montana
2 Supreme Court dismissed Petitioner’s argument that election-day registrants were denied the
3 “right to know what they were voting for or against” because the full text of the initiative was not
4 printed on the ballot. The Montana Supreme Court reasoned there were a myriad of other
5 methods, which are statutorily and constitutionally required, that the voters could have utilized in
6 order to view the full text, specifically noting that “due process is satisfied if the voters are
7 informed by or with the ballot of the subject of the amendment, are given fair opportunity by
8 publication to consider its full text, and are not deceived by the ballot’s words.” *Rhodes*, 2025 LX
9 231908 at *10 (quoting *State ex rel. Montana Citizens for Preservation of Citizen's Rights v.*
10 *Waltermire*, 227 Mont. 85, 90, 738 P.2d 1255, 1258 (1987)).

12 When analyzing the construction of a constitutional provision, the Court’s role is to
13 “ascertain and declare what is in terms or substance contained therein, not to insert what has
14 been omitted or omit what has been inserted.” *see also High Country Paving, Inc. v. United Fire*
15 *& Cas. Co.*, 2022 MT 72, ¶ 11, 408 Mont. 202, 507 P.3d 1165; *State ex rel. Mont. Dep’t of*
16 *Transp. v. Am. Bank of Mont.*, 2008 MT 362, ¶ 14, 346 Mont. 405, 195 P.3d 844. The Court is
17 inclined to agree with Intervenors’ argument that Petitioners are asking the Court to insert the
18 term “full text” into Subsection 3.

20 Further, when analyzing Subsection 3 the way it is strictly construed, there is no
21 requirement within the text that the proposed constitutional initiative be printed in its full text on
22 the ballot. However, the strict construction of Subsection 1 *does* provide that the full text is
23 required when submitting the proposed amendment by initiative¹, a requirement that CI-128

26 ¹ Subsection 1 reads as follows, “[t]he people may also propose constitutional amendments by initiative. Petitions
27 including the **full text of the proposed amendment** shall be signed by at least ten percent of the qualified electors of
28 the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative
districts.” Mont. Const. art. XIV, § 9(1) (*emphasis added*).

1 satisfied. This intentional construction of Article XIV, Section 9 of Montana Constitution leads
2 the Court to believe there is no such requirement that the full text be present on the ballot and if
3 the drafters had intended for the full text to be included on the ballot they would have explicitly
4 noted so in Subsection 3 as they did in Subsection 1. Thus, there is no factual basis upon which
5 Petitioner could recover based on the claim before the Court. Therefore, the Court finds it proper
6 to grant Intervenor’s Motion to Dismiss.

7
8 **CONCLUSION**

9 For the reasons discussed above, Intervenor’s Renewed Motion to Dismiss for failure to
10 state a claim pursuant to Rule 12(b)(6) M.R.Civ.P is **GRANTED**.

11 **ELECTRONICALLY SIGNED AND DATED BELOW**

12
13 cc: Raph Graybill – Attorney for Forward Montana Foundation, Planned Parenthood
Advocates of Montana, ACLU Montana, Samuel Dickman

14 Alexander H. Rate – Attorney for Forward Montana Foundation, Planned
15 Parenthood Advocates of Montana, ACLU Montana, Samuel Dickman

16 Derek J. Oestreicher – Attorney for Montana Life Defense Fund

17 Austin M. Knudsen – Attorney for State of Montana
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