

IN THE SUPREME COURT OF FLORIDA

CASE NUMBER: SC18-67

CITIZENS FOR STRONG SCHOOLS,
INC., et al.,

Lower Tribunal Cases: 1D16-2862;
372009CA004

Petitioners,

Vs.

FLORIDA STATE BOARD OF
EDUCATION, et al.,

Respondents.

_____ /

**MOTION FOR LEAVE TO FILE *AMICUS* BRIEF ON BEHALF OF
SEVERAL MEMBERS OF THE 1998 CONSTITUTION REVISION
COMMISSION IN SUPPORT OF THE RULING BELOW**

Pursuant to Fla. R. App. P. 9.370(a), several members of the 1998 Florida Constitution Revision Commission¹ (“Members”) respectfully move this Court for leave to file an *amicus* brief in support of the ruling below and the Florida State Board of Education, et al. (“Respondents”) in this appeal. The Respondents, Citizens for Strong Schools, Incorporated, et al. (“Petitioners”), and Celeste Johnson, et al.

¹ Members of the 1998 Constitution Revision Commission who presently desire to participate in this appeal and file an *amicus* brief are: Carlos Alfonso, Chris Corr, Valerie Evans, Paul Hawkes, Lieutenant Governor Toni Jennings, and Jim Scott.

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(“Intervenors”), have consented to the Members filing an *amicus* brief in this matter. This Court has already granted another amici curiae’s motion for leave to file an amicus brief in this matter. (No. SC18-67).

The Members’ Interest In This Appeal

Amici were members of the 1998 Constitution Revision Commission (“CRC”) who proposed and voted in favor of amending public education provisions within Article IX, section 1(a) of the Florida Constitution (“Article IX”). The Members’ interest in this appeal is to demonstrate that any purported legal analysis from members of the CRC is not relevant in determining whether the constitutional language at issue sets forth justiciable standards.

To present evidence now as to the CRC’s intentions in 1998 through some, but not all, CRC members would not reflect the views of the entire thirty-seven member CRC. Therefore, Members have interest in this appeal to emphasize that their individual views, and views of other members of the CRC, are not probative of the meaning of the Florida Constitution and should not be used in determining whether Article IX sets forth justiciable standards.

The Issues To Be Addressed In The Members’ *Amicus* Brief

The Members wish to address the irrelevancy of utilizing CRC members’ statements and personal views in determining whether Article IX, as amended in 1998, sets forth justiciable standards by which to measure the State’s educational

policies. The subjective intent of several individual CRC members is not proper evidence of the intent of all members of the CRC.

Even if the CRC members' view was somehow relevant, the introduction of their testimony would be improper. If there is any evidence presented as to the CRC's intent, it should have been introduced at the trial court. Finally, the Members will argue that the constitutional amendment does not create justiciable standards and that strong policy reasons support the decisions below. The Members support the Florida State Board of Education and the holding of the ruling below.

The Members Can Assist The Court

The main issue on appeal is whether Article IX, as amended in 1998, sets forth justiciable standards by which the courts can measure the State's educational policies. The Members, as participants in the CRC and in agreement with the First District's ruling, would like to inform the Court as to why CRC member's individualized legal analysis is irrelevant and would not assist the Court in determining whether Article IX sets forth justiciable standards. The Members would also like to demonstrate that attempting to interpret Article IX would be an imposition on the legislature's powers.

Florida case law makes clear that courts should not look to statements of individual framers regarding their subjective intentions when interpreting constitutional provisions. *See Sec. Feed & Seed Co. v. Lee*, 189 So. 869, 870 (Fla.

1939) (“We do not overlook the support given Appellants’ contention by affidavits of members of the Senate as to what they intended to accomplish by the act brought in question. The law appears settled that such testimony is of doubtful verity if at all admissible to show what was intended by the Act.”); *see State v. Patterson*, 694 So. 2d 55, 58 n.3 (Fla. 5th DCA 1997). Moreover, “The test is whether an enforceable standard was actually created by the text of the amendment itself.” *Haridopolos v. Citizens for Strong Schs., Inc.*, 81 So. 3d 465, 478 (Fla. 1st DCA 2011) (Roberts, J., dissenting), *review den.*, 103 So. 3d 140 (Fla. 2012).

Therefore, the Members, as individual framers, urge this Court to not rely on CRC members’ statements and personal views that contain subjective intentions in determining whether Article IX sets forth justiciable standards. In determining whether Article IX sets forth justiciable standards, the Court should look to the actual language in the Constitution itself and not the views of individual CRC members. In addition, the Members intend to show why the Court should not be involved in defining standards for Florida’s educational system.

The Parties Have Consented Or Are Not Opposing the *Amicus* Brief

Respondents, Petitioners, and Intervenors have consented to the Members filing an *amicus* brief in this matter.

Conclusion

For the above reasons, this Court should grant Members' motion for leave to file an *amicus* brief to assist the Court in deciding this appeal.

Dated: July 26, 2018.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion was prepared in Times New Roman 14-point font, in compliance with Florida Rule of Appellate Procedure 9.210(a)(2).

/s/Kevin W. Shaughnessy

Kevin W. Shaughnessy

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2018, a true and correct copy of the foregoing document has been furnished by electronic service through the Florida Courts E-Filing Portal.

/s/Kevin W. Shaughnessy

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