

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
CIRCUIT CIVIL NO. 08-006817CI-8

DR. WILLIAM PYLE,

Plaintiff,

vs.

MAYOR MICHAEL FINNERTY,  
COMMISSIONER AL HALPRIN,  
COMMISSIONER CHRISTOPHER LEONARD,  
COMMISSIONER HARRY METZ, and  
COMMISSIONER LINDA CHANEY,  
all in their official capacities as the members of  
the St. Pete Beach City Commission, the  
CITY OF ST. PETE BEACH, a municipal  
government of the State of Florida, and  
DEBORAH CLARK as the Supervisor of Elections  
for Pinellas County, Florida in her official capacity,  
and the Pinellas County Canvassing Board,

Defendants.

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**ORDER ON MOTION TO DISMISS COMPLAINT  
AND TO QUASH ALTERNATIVE WRIT OF MANDAMUS  
AS TO THE AMENDED COMPLAINT AND ON ORDER TO  
SHOW CAUSE WHY THIS WRIT SHOULD NOT BE MADE PERMANENT**

THIS CAUSE came on to be heard on the Motion to Dismiss Complaint and to Quash Alternative Writ of Mandamus as to the Amended Complaint and on Order to Show Cause. The Court has considered the pleadings filed by the parties, heard testimony, and received argument. Based on all of this material, the Court enters this order based on the following findings and conclusions:

1. The subject election is scheduled, set, and ready to go. Absentee ballots have even been sent and returned.

2. To stop this election at this point would create confusion and disorder. It would probably generate uncertainty and distrust among voters far greater than any problems with the ballot. It potentially would also undermine two referenda that are not even a part of this litigation.

3 The Court has considered the Plaintiff's position as to the sufficiency of the ballot summary and the Intervener's detailed written response. It is clear that there are legitimate arguments on both sides as to the sufficiency of the ballot summaries. There are four proposed ordinances. The Alternative Writ was issued as to all four, but it may be that not all of the ballot summaries are defective. The Court need not resolve this issue now. However, if the Court issued a Permanent Writ as to some of the proposed ordinances, allowing the election to proceed as to others, it would exacerbate the confusion and disorder that would result from any effort to stop the election at this point. Mandamus is unworkable under these circumstances.

4. The status of the proposed summaries is far from clear at this point

5. Given the opportunity, the voters may resolve this entire matter. In fact, if the voters believe the summaries are unclear they may reject the proposals for that reason alone or they may simply reject them because they think they are a bad idea. If that happens this matter is at a close without any further action by the Court.

6. All of these factors lead the Court to conclude that the approach taken in *Wadhams v. Board of County Commissioners of Sarasota City*, 567 So.2d 414 (Fla. 1990) is the wisest. The Supreme Court makes it clear that after the election the Plaintiff in this case may return to Court with a more effective remedy – declaratory relief. If the voters respond the way Plaintiff wants them to, he need not take any further action. If the voters

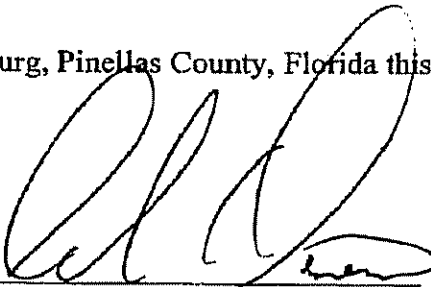
respond contrary to Plaintiff's position, he can return to Court and raise the issues that are the subject of this litigation in a manner that allows them to be more effectively presented.

7. The approach in *Wadhams* is also preferable because it is doubtful that a Writ of Mandamus is permissible in this case. Plaintiff does not seek a writ directing the Defendants to draft summaries where they have refused to draft them. The Defendants have already drafted the summaries. Plaintiff wants the Court to tell the Defendants how to draft new summaries. There is a tremendous amount of discretion in the wording of the summaries – it is not merely ministerial. It might well happen that the Plaintiff is unhappy with the next set of summaries and returns to Court for approval. That could go on ad infinitum.

**ACCORDINGLY, it is hereby**

**ORDERED AND ADJUDGED** that the Motion to Dismiss and to Quash is **GRANTED.**

28<sup>th</sup> day of May 2008. **DONE AND ORDERED** at St. Petersburg, Pinellas County, Florida this



DAVID A. DEMERS  
Circuit Judge

Copies to: Brian P. Battaglia, Esquire  
Robert K. Lincoln, Esquire  
Stacy Dillard-Spahn, Esquire  
Kenneth Weiss, Esquire  
Anthony S. Battaglia, Esquire  
Timothy W. Weber, Esquire  
Betsy Steg, Esquire

ORIGINAL SIGNED  
TRUE COPY

MAY 28 2008

DAVID A. DEMERS  
Circuit Judge