ENROLLED HOUSE JOINT RESOLUTION 1056

ENACTED BY THE SECOND REGULAR SESSION OF THE

52ND LEGISLATURE OF THE STATE OF OKLAHOMA

NUMBERED BY THE SECRETARY OF STATE

STATE QUESTION NUMBER 755

LEGISLATIVE REFERENDUM NUMBER 355

RECEIVED: May 25, 2010

Resolution

ENROLLED HOUSE
JOINT
RESOLUTION NO. 1056

By: Duncan, Reynolds, Coody, Tibbs, Derby, Kern, Terrill, Enns, Christian, Faught, Moore and Key of the House

and

Sykes and Brogdon of the Senate

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 1 of Article VII of the Constitution of the State of Oklahoma; creating the Save Our State Amendment; requiring the courts of this state to uphold and adhere to the law as provided in federal and state constitutions, established common law, laws, rules and regulations; prohibiting consideration of certain laws; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 2ND SESSION OF THE 52ND OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 1 of Article VII of the Constitution of the State of Oklahoma to read as follows:

Section 1. A. The judicial power of this State shall be vested in the Senate, sitting as a Court of Impeachment, a Supreme Court, the Court of Criminal Appeals, the Court on the Judiciary, the ~~State Industrial~~ Workers' Compensation Court, the Court of Bank Review,

the Court of Tax Review, and such intermediate appellate courts as may be provided by statute, District Courts, and such Boards, Agencies and Commissions created by the Constitution or established by statute as exercise adjudicative authority or render decisions in individual proceedings. Provided that the Court of Criminal Appeals, the ~~State Industrial~~ Workers' Compensation Court, the Court of Bank Review and the Court of Tax Review and such Boards, Agencies and Commissions as have been established by statute shall continue in effect, subject to the power of the Legislature to change or abolish said Courts, Boards, Agencies, or Commissions. Municipal Courts in cities or incorporated towns shall continue in effect and shall be subject to creation, abolition or alteration by the Legislature by general laws, but shall be limited in jurisdiction to criminal and traffic proceedings arising out of infractions of the provisions of ordinances of cities and towns or of duly adopted regulations authorized by such ordinances.

B. Subsection C of this section shall be known as the "Save Our State Amendment".

C. The Courts provided for in subsection A of this section, when exercising their judicial authority, shall uphold and adhere to the law as provided in the United States Constitution, the Oklahoma Constitution, the United States Code, federal regulations promulgated pursuant thereto, established common law, the Oklahoma Statutes and rules promulgated pursuant thereto, and if necessary the law of another state of the United States provided the law of the other state does not include Sharia Law, in making judicial decisions. The courts shall not look to the legal precepts of other nations or cultures. Specifically, the courts shall not consider international law or Sharia Law. The provisions of this subsection shall apply to all cases before the respective courts including, but not limited to, cases of first impression.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. ____ State Question No. ____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the State Constitution. It would change a section that deals with the courts of this state. It would make courts rely on federal and state laws when deciding cases. It would forbid courts from looking at international law or Sharia Law when deciding cases.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES _____

AGAINST THE PROPOSAL – NO _____

SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 18th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 24th day of May, 2010.

Presiding Officer of the Senate

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 25th **day of** May, **20** 10,

at 11:40 **o'clock** ____ **A.M.**

By: M. Susan Savage

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
(405) 521-3912
Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

May 25, 2010

The Honorable Drew Edmondson
Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105

Dear Attorney General Edmondson:

You are hereby notified that Enrolled House Joint Resolution 1056 was received in the Office of the Secretary of State this 25th day of May, 2010. This resolution has been designated as **State Question Number 755, Legislative Referendum Number 355.**

Pursuant to 34 O.S., 2008 Supp., Section 9, this office is submitting the proposed ballot title to you for review.

If this office may be of further assistance, please advise.

Sincerely,

M. Susan Savage
Secretary of State

MSS/kj

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
(405) 521-3912
Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

May 25, 2010

The Honorable Paul Ziriax
Secretary, State Election Board
State Capitol, Room 3
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriax:

You are hereby notified that Enrolled House Joint Resolution 1056 was received in the Office of the Secretary of State this 25th day of May, 2010. This resolution has been designated as **State Question Number 755, Legislative Referendum Number 355.**

This office has submitted the proposed ballot title to the Attorney General for review as required by 34 O.S. 2008 Supp., Section 9. The official ballot title will be submitted to you upon completion of the review.

If this office may be of further assistance, please advise.

Sincerely,

M. Susan Savage
Secretary of State

MSS/kj

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
(405) 521-3912
Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

RECEIVED

MAY 26 2010

OFFICE OF THE
GOVERNOR

May 25, 2010

The Honorable Brad Henry
Governor, State of Oklahoma
State Capitol, Room 212
Oklahoma City, Oklahoma 73105

Dear Governor Henry:

You are hereby notified that Enrolled House Joint Resolution 1056 was received in the Office of the Secretary of State this 25th day of May, 2010. This resolution has been designated as **State Question Number 755, Legislative Referendum Number 355.**

This office has submitted the proposed ballot title to the Attorney General for review as required by 34 O.S. 2008 Supp., Section 9. The official ballot title will be submitted to you upon completion of the review.

If this office may be of further assistance, please advise.

Sincerely,

M. Susan Savage
Secretary of State

MSS/kj

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

May 27, 2010

The Honorable M. Susan Savage
Oklahoma Secretary of State
Room 101, State Capitol Building
Oklahoma City, Oklahoma 73105

Re: State Question Number 755
Legislative Referendum Number 355

Dear Secretary Savage:

I am in receipt of your letter to Attorney General W.A. Drew Edmondson regarding the above. Attorney General Edmondson has requested that I respond back to you. I have referred this information to Neal Leader, Senior Assistant Attorney General, for his information and use.

If you have any questions, please feel free to contact Mr. Leader directly.

Sincerely,

TOM GRUBER
FIRST ASSISTANT ATTORNEY GENERAL

TG:seh

cc: W.A. Drew Edmondson
Attorney General

Neal Leader
Senior Assistant Attorney General

RECEIVED
JUN 1 2010
OKLAHOMA SECRETARY OF STATE

313 N.E. 21ST STREET • OKLAHOMA CITY, OK 73105 • (405) 521-3921 • FAX: (405) 521-6246

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

June 2, 2010

M. Susan Savage, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

The Honorable Glenn Coffee
Senate President Pro Tempore
State Capitol, Room 422
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

The Honorable Chris Benge
Speaker of the House of Representatives
State Capitol, Room 401
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

Re: Ballot Title for State Question No. 755, Legislative Referendum 355

Dear Secretary Savage, Senator Coffee, and Speaker Benge:

In accordance with the provisions of 34 O.S.Supp.2009, § 9(C), we have reviewed the Ballot Title for the above referenced State Question and conclude that it does not comply with applicable laws for the following reason:

- It does not adequately explain the effect of the proposition because it does not explain what either Sharia Law or international law is.

Having found that the Ballot Title does not comply with applicable law, we will, in conformity with the provisions of 34 O.S.Supp.2009, § 9(C), within ten (10) business days, prepare a Preliminary Ballot Title which complies with the law.

Respectfully submitted,

W. A. DREW EDMONDSON
ATTORNEY GENERAL

WAE/ab

313 N.E. 21ST STREET • OKLAHOMA CITY, OK 73105 • (405) 521-3921 • FAX: (405) 521-6246

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

June 4, 2010

M. Susan Savage, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, OK 73105-4897

The Honorable Glenn Coffee
Senate President Pro Tempore
State Capitol, Room 422
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

The Honorable Chris Benge
Speaker of the House of Representatives
State Capitol, Room 401
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

Re: Preliminary Ballot Title for State Question No. 755, Legislative Referendum No. 355

Dear Secretary Savage, Senator Coffee, and Speaker Benge:

Having found that the proposed ballot title for the above referenced state question did not comply with applicable laws, we have, in accordance with the provisions of 34 O.S.Supp.2009, § 9(C), prepared the following Preliminary Ballot Title. As a Title 34 Ballot Title review, the following does not constitute an Attorney General Opinion on the merits or constitutionality of the underlying proposed changes in the law, nor on the ability of federal law to preempt the changes in the law. The Preliminary Ballot Title reads as follows:

PRELIMINARY BALLOT TITLE FOR STATE QUESTION NO. 755

This measure amends the State Constitution. It changes a section that deals with the courts of this state. It would amend Article 7, Section 1. It

313 N.E. 21ST STREET • OKLAHOMA CITY, OK 73105 • (405) 521-3921 • FAX: (405) 521-6246

makes courts rely on federal and state law when deciding cases. It forbids courts from considering or using international law. It forbids courts from considering or using Sharia Law.

International law is also known as the law of nations. It deals with the conduct of international organizations and independent nations, such as countries, states and tribes. It deals with their relationship with each other. It also deals with some of their relationships with persons.

The law of nations is formed by the general assent of civilized nations. Sources of international law also include international agreements, as well as treaties.

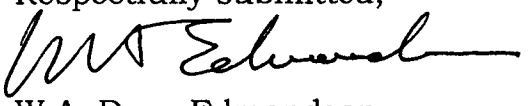
Sharia Law is Islamic law. It is based on two principal sources, the Koran and the teaching of Mohammed.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

Respectfully submitted,



W.A. Drew Edmondson
Attorney General

WAE/ab

OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

June 24, 2010

FILED
JUN 24 2010
OKLAHOMA SECRETARY OF STATE

M. Susan Savage, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, OK 73105-4897

The Honorable Glenn Coffee
Senate President Pro Tempore
State Capitol, Room 422
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

The Honorable Chris Benge
Speaker of the House of Representatives
State Capitol, Room 401
2300 N. Lincoln Boulevard
Oklahoma City, OK 73105

Re: Final Ballot Title for State Question No. 755, Legislative Referendum No. 355

Dear Secretary Savage, Senator Coffee, and Speaker Benge:

Having found that the proposed ballot title for the above referenced state question did not comply with applicable laws, we have, in accordance with the provisions of 34 O.S.Supp.2009, § 9(C), prepared the following Final Ballot Title. As a Title 34 Ballot Title review, the following does not constitute an Attorney General Opinion on the merits or constitutionality of the underlying proposed changes in the law, nor on the ability of federal law to preempt the changes in the law. The Final Ballot Title reads as follows:

FINAL BALLOT TITLE FOR STATE QUESTION NO. 755

This measure amends the State Constitution. It changes a section that deals with the courts of this state. It would amend Article 7, Section 1. It

makes courts rely on federal and state law when deciding cases. It forbids courts from considering or using international law. It forbids courts from considering or using Sharia Law.

International law is also known as the law of nations. It deals with the conduct of international organizations and independent nations, such as countries, states and tribes. It deals with their relationship with each other. It also deals with some of their relationships with persons.

The law of nations is formed by the general assent of civilized nations. Sources of international law also include international agreements, as well as treaties.

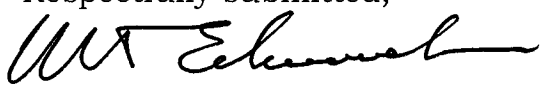
Sharia Law is Islamic law. It is based on two principal sources, the Koran and the teaching of Mohammed.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

Respectfully submitted,



W.A. Drew Edmondson
Attorney General

WAE/ab

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
(405) 521-3912
Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

June 24, 2010

The Honorable Brad Henry
Governor, State of Oklahoma
State Capitol, Room 212
Oklahoma City, Oklahoma 73105

Dear Governor Henry:

Enclosed are copies of the Attorney General's final review of the proposed Ballot Title for State Question 755, Legislative Referendum 355; the State Question from House Joint Resolution 1056; and the letter to the Oklahoma State Election Board attesting the measure.

Pursuant to the provisions of Article 24, of the Oklahoma Constitution, Section 1, this office is submitting said state question and the Attorney General's review to your office.

If there are any questions, please do not hesitate to contact this office.

Sincerely,

M. Susan Savage
Secretary of State

MSS/kj

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
(405) 521-3912
Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

June 24, 2010

The Honorable Paul Ziriax
Secretary, State Election Board
State Capitol, Room 3
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriax:

Enclosed are copies of the Attorney General's final review of the proposed Ballot Title for State Question 755, Legislative Referendum 355.

If there are any questions, please do not hesitate to contact this office.

Sincerely,

M. Susan Savage
Secretary of State

MSS/kj

Brad Henry
Governor

FILED
AUG 10 2010
OKLAHOMA SECRETARY OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE PROCLAMATION

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the provisions of Section 3 of Article V and Section 1 of Article XXIV of the Oklahoma Constitution, and Section 12 of Title 34 of the Oklahoma Statutes, and the referral by the Secretary of State do hereby declare that Legislative Referendum Number 355, State Question 755, be submitted to qualified electors of the State of Oklahoma for their approval or rejection at the general election to be held statewide on November 2, 2010.

The substance of the measure is as follows:

This measure amends the State Constitution. It changes a section that deals with the courts of this state. It would amend Article 7, Section 1. It makes courts rely on federal and state law when deciding cases. It forbids courts from considering or using international law. It forbids courts from considering or using Sharia Law.

International law is also known as the law of nations. It deals with the conduct of international organizations and independent nations, such as countries, states and tribes. It deals with their relationship with each other. It also deals with some of their relationships with persons.

The law of nations is formed by the general assent of civilized nations. Sources of international law also include international agreements, as well as treaties.

Sharia Law is Islamic law. It is based on two principal sources, the Koran and the teaching of Mohammed.

Copies of this Executive Proclamation shall be delivered to the Secretary of State, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of the State Election Board.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 9th day of August, 2010.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

BRAD HENRY

ATTEST:

SECRETARY OF STATE

STATE CAPITOL BUILDING • 2300 N. LINCOLN BOULEVARD, SUITE 212 • OKLAHOMA CITY, OKLAHOMA 73105 • (405) 521-2342 • FAX: (405) 521-3353

OKLAHOMA SECRETARY OF STATE
2300 N. LINCOLN BLVD. ROOM 101
OKLAHOMA CITY, OK 73105-4897
(405) 521-3912
Fax # (405) 521-3771

M. Susan Savage
Secretary of State

Brad Henry
Governor

August 10, 2010

The Honorable Paul Ziriax
Secretary, State Election Board
State Capitol, Room 3
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriax:

Enclosed are copies of the Governor's Proclamations calling for the election on:

State Question Number 744, Initiative Petition Number 391
State Question Number 746, Legislative Referendum Number 347
State Question Number 747, Legislative Referendum Number 348
State Question Number 748, Legislative Referendum Number 349
State Question Number 750, Legislative Referendum Number 350
State Question Number 751, Legislative Referendum Number 351
State Question Number 752, Legislative Referendum Number 352
State Question Number 754, Legislative Referendum Number 354
State Question Number 755, Legislative Referendum Number 355
State Question Number 756, Legislative Referendum Number 356
State Question Number 757, Legislative Referendum Number 357

If there are any questions, or if our office may be of further assistance, please do not hesitate to let us know.

Sincerely,

M. Susan Savage
Secretary of State

MSS/kj

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

MUNEER AWAD

Plaintiff / Petitioner

v.

PAUL ZIRIAX, Agency Head, Oklahoma State Board of Elections

THOMAS PRINCE, Chairman of the Board, Oklahoma State Board of Elections

RAMON WATKINS, Board Member, Oklahoma State Board of Elections;

SUSAN TURPEN, Board Member, Oklahoma State Board of Elections

CIV-10-1186 M

CASE NO.:

HON.:

COMPLAINT SEEKING A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65, Plaintiff, Muneer Awad, hereby moves the court for a temporary restraining order and preliminary injunction enjoining Defendants from certifying the election results for State Question 755.

Plaintiff's motion is supported by the Complaint filed with court and a Memorandum of Law submitted to the Court.

Respectfully submitted,

JURISDICTION

Jurisdiction in this Court is pursuant to 28 U.S.C Section § 1331 based on the presence of a federal question.

PARTIES

1. Plaintiff, Mr. Muneer Awad, is a resident of Oklahoma City, Oklahoma where he lives with his wife

2. Plaintiff is Executive Director of the Council on American Islamic Relations-Oklahoma ("CAIR-OK). In this capacity, Plaintiff works to empower Oklahoma's Muslims to become politically involved, enhance the understanding and acceptance of Islam, and defend the civil rights of Muslims and aggrieved persons.

3. Plaintiff has followed closely developments and media reports regarding State Question 755 which, if certified, would forbid courts from considering, among other things, "shariah law." He has directly encountered the amended text State Question 755 would enact repeatedly as well as media reports that comment on the amended text.

4. Defendants Thomas Prince, Ramon Watkins, and Susan Turpen are the entire membership of the Board for Oklahoma's State Board of Elections. Defendants Prince, Watkins, and Turpen have the legal authority to vote to certify an election. Election results have no legal effect until the aforementioned Defendants certify an election.

5. Defendant Paul Ziriax is the Agency Head for Oklahoma's State Board of Elections. Defendant Ziriax has day to day control over the operations of the Board of Elections.

PLAINTIFF'S FAITH

6. Plaintiff is a practicing Muslim. Plaintiff relies upon the two core sources of insight into his faith: the Quran and the recorded teachings of Islam's prophet.

7. Plaintiff's faith is the motivation for much of what he does. From greeting others with a smile to waking for the customary prayer at dawn, Plaintiff avails himself of the millennia of the evolving Islamic traditions grounded upon the Quran and Islam's prophetic teachings.

8. Plaintiff's faith informs the character and content of his personal and professional relationships. The Quran and Islam's prophetic teachings allow Plaintiff access to the practical morality contained therein regarding prescribed and proscribed conduct in innumberable circumstances. Thus, when Plaintiff scrupulously attends to fairness in his business dealings, he acts from faith, having taken to heart guidance in Islam's prophetic teachings.

9. Plaintiff believes that his life is made richer through his adherence to Islam and that the lives of others are made no worse.

BACKGROUND

10. Oklahoma's Constitution provides a mechanism through which a resolution passing by majority vote in both the State House of Representatives and the State Senate can be referred to the Secretary of State for placement on the ballot of the next election. Oklahoma refers to these ballot initiatives as state questions.

11. Subsequent to election day, if the State Board of Elections certifies that a majority of the votes cast on the state question were in favor of it being adopted, the contents of the state question become legally effective.

12. For state questions proposing amendments to Oklahoma's constitution, the certification of the election results by the State Board of Elections is the moment at which the amendment becomes a part of the constitution.

STATE QUESTION 755

13. State Question 755 amends Article 7, Section I of Oklahoma's constitution. The initiative was described on the ballot to voters as a directive to state courts to "rely on federal and state law when deciding cases." The description states that the amendment would "forbid courts from considering or using international law." It would also "forbid courts from considering or using Sharia Law."

14. The ballot's explanation of what the amendment means when it excludes "Sharia Law" from state courts indicates that the intention of the phrase was to demarcate a religious tradition. "Sharia law" says State Question 755 is "Islamic law." While State

Question 755 described what "Sharia Law" is based on—the "Koran and the teaching of Mohammed"—it did not suggest what the actual content of the initiave's operative phrase, "Shariah Law," identified.

15. The text that State Question 755 places in Oklahoma's constitution forbids courts from considering Shariah Law twice. First, it forbids state courts from applying the law of other states, even when otherwise appropriate, if that law "include[s] Sharia Law." Second, the text uses broad language to forbid courts from "consider[ing] Sharia Law." No other religious tradition is mentioned.

16. State Question 755's chief proponents have repeatedly characterized the restriction it places on Shariah Law as a necessary bulwark against the invidious religious tradition it contains. The initiative's architects have variously referred to State Question 755 as a preemptive strike, a response to a looming threat, and as a much needed legal reinforcement to the Oklahoma's Judeo-Christian values.

17. Preliminary election results suggest that voters approved State Question 755. State Question 755 (hereinafter "Shariah Ban") will become a part of the constitution if the State Board of Elections certifies the results at its scheduled meeting on Tuesday, November 9, 2010.

COUNT I: THE SHARIAH BAN WILL VIOLATE PLAINTIFF'S RIGHT TO POSSESS HIS FAITH FREE FROM A GOVERNMENT THAT CONDEMNS IT

18. Plaintiff fully incorporates by reference as though fully rewritten the allegations contained in all preceding paragraphs.

19. Once the Shariah Ban becomes a part of Oklahoma's constitution, Plaintiff will suffer official disapproval of his faith communicated to him by Oklahoma through the document that organizes the state's existence: the constitution

20. The Shariah Ban, because the text only mentions and restricts the religious traditions upon which Plaintiff draws his faith, will imply to Oklahomans that there is something especially nefarious about the Koran and the teaching of Mohammed that justifies its exclusion from state courts.

21. According to its creators, the Shariah Ban had a sectarian purpose and the illicit effect of discrediting Plaintiff's faith.

22. Implementation of the Shariah Ban will force state courts to take positions with respect to the religious doctrines pertinent to Plaintiff's faith. In order to exclude Shariah Law, a court must determine what that phrase does and does not include. This produces an excessive entanglement in spheres the Establishment Clause preserves for the Plaintiff.

COUNT II: THE SHARIAH BAN IMPERMISSIBLY CONSTRAINS PLAINTIFF'S ABILITY TO EXERCISE HIS FAITH WITH RESPECT TO HIS ESTATE

23. Plaintiff fully incorporates by reference as though fully rewritten the allegations contained in all preceding paragraphs.

24. Plaintiff has a validly executed last will and testament. The will has several provisions regarding bequests, burial instructions, and the division and assignment of Plaintiff's estate. Many of these provisions direct the testator to specific verses in books that document the teaching of Mohammed. In his will Plaintiff directs the testator of his estate to perform tasks, deliver bequests, and divide his estate in accordance with the guidance contained in the prophetic teachings to which he refers.

25. Before November 9, 2010, Plaintiff could trust a court to ensure that the executor of his estate acts in accordance with his directions. Courts regularly incorporate documents into a will when the reference and the documents satisfy certain rudimentary criteria.

26. After November 9, 2010, no state court in Oklahoma will incorporate in the will the documents to which Plaintiff referred. This is because those documents are "Shariah Law." To incorporate into a will verses from a compendium of the teachings of Mohammed would surely require a judge to "consider…Shariah Law" which will soon be forbidden.

27. Because Plaintiff cannot know beforehand when he will die, the near certainty that, in a few ddays, no court will be willing to probate his will creates the imminent injury of dying intestate rather than with a valid, enforceable will. The apprehension of this uncertainty is an injury itself.

28. Furthermore, Plaintiff no longer can have his will reflect his faith. Any subsequent will, to be enforceable in state court, would have to eliminate not only the references to verses that might be subsumed by the phrase "Shariah Law" but also the neutral language that reflects the religious guidance on inheritance shares, bequests, and burial instructions.

PRAYER FOR RELIEF

For the foregoing reasons, Plaintiff requests that the Court in the proposed form submitted by Plaintiff, schedule a hearing on Plaintiff's request for a preliminary injunction at the earliest possible date, and after that hearing, enter a preliminary injunction in the form proposed by Plaintiff.

Muneer Awad

101 NE 53rd Street, #3514
Oklahoma City, OK 73105
405-415-6851

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

MUNEER AWAD, ADAM SOLTANI, IMAD ENCHASSI, DOUGLAS MOCK, PATRICIA SCHWAGMEYER,	)	
Plaintiffs,	)	
vs.	)	Case No. CIV-10-1186-M
PAUL ZIRIAX, Secretary; STEVE CURRY, Chairman; TOM MONTGOMERY, DIANE SPURLOCK, members of the Oklahoma State Election Board,	)	
Defendants.	)	

ORDER

Before the Court are plaintiffs' Motion for Summary Judgment and defendants' Cross Motion for Summary Judgment. The matter has been fully briefed. Based upon the parties' submissions, the Court makes its determination.

I. FACTUAL BACKGROUND

On May 18, 2010, the Oklahoma House of Representatives voted to approve House Joint Resolution 1056 ("HJR 1056"), and the Oklahoma Senate followed suit on May 24, 2010. The joint resolution mandated that a proposed constitutional amendment, entitled the "Save Our State Amendment," be placed on the next electoral ballot for a vote of the people. The proposed constitutional amendment provided:

> The Courts . . . when exercising their judicial authority, shall uphold and adhere to the law as provided in the United States Constitution, the Oklahoma Constitution, the United States Code, federal regulations promulgated pursuant thereto, established common law, the Oklahoma Statutes and rules promulgated pursuant thereto, and if necessary the law of another state of the United States provided the law of the other state does not include Sharia Law, in making judicial

> decisions. The courts shall not look to the legal precepts of other nations or cultures. Specifically, the courts shall not consider international law or Sharia Law. The provisions of this subsection shall apply to all cases before the respective courts including, but not limited to, cases of first impression.

HJR 1056 at 3. During conference, the legislators added the language "provided the law of the other state does not include Sharia Law" to the provision allowing courts to consider the law of another state of the United States.

The proposed ballot title stated:

> This measure amends the State Constitution. It would change a section that deals with courts of this state. It would make courts rely on federal and state laws when deciding cases. It would forbid courts from looking at international law or Sharia Law when deciding cases. SHALL THE PROPOSAL BE APPROVED?

HJR 1056 at 4.

After passage of HJR 1056, the Secretary of State forwarded the proposed ballot title to the Attorney General for review, as required by law. Determining that the proposed ballot title did not adequately explain the effect of the proposed amendment because it failed to define what either Sharia Law or international law is, the Attorney General revised it to read:

> This measure amends the State Constitution. It changes a section that deals with the courts of this state. It would amend Article 7, Section 1. It makes courts rely on federal and state law when deciding cases. It forbids courts from considering or using international law. It forbids courts from considering or using Sharia Law.
>
> International law is also known as the law of nations. It deals with the conduct of international organizations and independent nations, such as countries, states and tribes. It deals with their relationship with each other. It also deals with some of their relationships with persons.

> The law of nations is formed by the general assent of civilized nations. Sources of international law also include international agreements, as well as treaties.
>
> Sharia Law is Islamic law. It is based on two principal sources, the Koran and the teaching of Mohammed.
>
> SHALL THE PROPOSAL BE APPROVED?
>
> FOR THE PROPOSAL – YES _____
>
> AGAINST THE PROPOSAL – NO _____

Final Ballot Title [docket no. 17-1, p. 13-14].

The Attorney General then submitted the revised ballot title to the Secretary of State, Senate President Pro Tempore, and House Speaker for their review. No objections or concerns about the proposed revisions to the ballot title were expressed, and with no objections, the ballot title was finalized and placed on the ballot as Oklahoma State Question 755 ("SQ 755").

On November 2, 2010, 70.08% of Oklahomans who voted approved SQ 755. Once the Oklahoma State Board of Elections certifies the election results, the amendment will become a part of the Oklahoma Constitution.

II. PROCEDURAL BACKGROUND

On November 4, 2010, plaintiff Muneer Awad filed this action, challenging the constitutionality of SQ 755's amendment to the Oklahoma Constitution and seeking to enjoin the certification of the election results for SQ 755. Plaintiff Awad alleged that SQ 755 violated the Establishment Clause and the Free Exercise Clause of the First Amendment to the United States Constitution. Plaintiff Awad is an American citizen born in Ann Arbor, Michigan, and a devout, lifelong Muslim. At the time of SQ 755's passage, plaintiff Awad was the executive director of the

Oklahoma Chapter of the Council on American-Islamic Relations ("CAIR-OK") and resided in Oklahoma City, Oklahoma.

On November 8, 2010, a hearing on plaintiff Awad's motion for a temporary injunction was held, and this Court orally granted a temporary restraining order, *see* docket no. 6, and issued a written opinion one day later, *see* docket no. 7. On November 22, 2010, a preliminary injunction hearing was held. On November 29, 2010, the Court granted the preliminary injunction, finding plaintiff Awad had standing, his claims were ripe, SQ 755 likely violated both the Free Exercise Clause and the Establishment Clause, the balance of harms weighed strongly in favor of plaintiff Awad, the alleged violation of plaintiff Awad's First Amendment rights constituted irreparable injury, and the public interest demanded protection of these rights. *See* November 29, 2010 Order [docket no. 20]. Defendants filed a timely notice of appeal on December 1, 2010. On January 10, 2012, the Tenth Circuit issued its ruling, affirming this Court's grant of a preliminary injunction. *See Awad v. Ziriax*, 670 F.3d 1111 (10th Cir. 2012).

On July 29, 2012, the First Amended Complaint was filed in this case, joining Adam Soltani, Imad Enchassi, Douglas Mock, and Patricia Schwagmeyer as additional plaintiffs. Plaintiffs Awad, Soltani, and Enchassi assert claims under the Free Exercise Clause and the Establishment Clause, and plaintiffs Mock and Schwagmeyer assert claims under the Equal Protection Clause, the Due Process Clause, and the Supremacy Clause. Plaintiff Soltani is an American citizen born in the United States, is a devout, lifelong Muslim, and is currently employed by CAIR-OK as Executive Director. Plaintiff Enchassi is an American citizen, a lifelong Muslim, and the Imam for the Islamic Society of Greater Oklahoma City. Plaintiffs Mock and Schwagmeyer are faculty members at the University of Oklahoma in the Department of Biology, who were married in Scotland on January

8, 1983. On August 1, 2012, plaintiff Awad moved to New York City to accept a position with another CAIR affiliate.

III. DISCUSSION

The parties have now cross-moved for summary judgment on the sole issue in this case – whether defendants should be permanently enjoined from certifying the election results for SQ 755.

> For a party to obtain a permanent injunction, it must prove: (1) actual success on the merits; (2) irreparable harm unless the injunction is issued; (3) the threatened injury outweighs the harm that the injunction may cause the opposing party; and (4) the injunction, if issued, will not adversely affect the public interest.

Sw. Stainless, LP v. Sappington, 582 F.3d 1176, 1191 (10th Cir. 2009) (internal quotations and citation omitted).

A. Actual Success On The Merits[1]

1. Establishment Clause claim

a. Standing

The Tenth Circuit found that plaintiff Awad had standing to bring his Establishment Clause claim. Specifically, the Tenth Circuit held:

> Mr. Awad's allegation – that the proposed state amendment *expressly* condemns his religion and exposes him and other Muslims in Oklahoma to disfavored treatment – suffices to establish the kind of direct injury-in-fact necessary to create Establishment Clause standing.

---

[1]Because this Court finds that plaintiffs Soltani and Enchassi succeed on the merits of their Establishment Clause claim, that the Sharia law provisions in the amendment cannot be severed, and that the amendment should be enjoined in its entirety, the Court declines to address the standing of plaintiffs Awad, Mock, and Schwagmeyer or the merits of the Free Exercise Clause claim, the Equal Protection Clause claim, the Due Process Clause claim, or the Supremacy Clause claim.

Awad, 670 F.3d at 1123 (emphasis in original). The Tenth Circuit further held that the injury alleged by plaintiff Awad is imminent and not conjectural or hypothetical. *Id.* Finally, the Tenth Circuit held that plaintiff Awad "has shown that his alleged injuries are fairly traceable to the challenged action of defendants and are likely to be redressed by a favorable decision." *Id.* at 1124 (internal quotations and citation omitted).

In their response and cross motion for summary judgment, defendants state as follows:

> while we disagree with the Tenth Circuit's holding on [Awad's] standing to bring his Establishment Clause claim . . . we acknowledge that the Tenth Circuit found that Awad had standing. And while Awad's having moved out of state has likely deprived him of standing, Plaintiffs Enchassi, and Soltani standing allegations for purposes of the Establishment Clause are substantially similar to those considered by the Tenth Circuit.

Defendants' Response to Plaintiffs' Motion for Summary Judgment and Cross Motion for Summary Judgment and Brief in Support at 3, n.1.

Having reviewed the parties' submissions, and for the reasons set forth in the Tenth Circuit's opinion, the Court finds plaintiffs Enchassi and Soltani have standing to bring their Establishment Clause claim.

b. Merits

The Tenth Circuit has held that the *Larson*[2] test applies to plaintiffs' Establishment Clause claim because the proposed amendment discriminates among religions. *Awad*, 670 F.3d at 1128. Further, the Tenth Circuit found that "[t]his case presents even stronger 'explicit and deliberate distinctions' among religions than the provision that warranted strict scrutiny in *Larson*." *Id.*

[2]*Larson v. Valente*, 456 U.S. 228 (1982).

"To survive strict scrutiny under *Larson*, [defendants] must show (1) a compelling government interest, and (2) that the amendment is 'closely fitted' to that compelling interest." *Id.* at 1129. "For an interest to be sufficiently compelling to justify a law that discriminates among religions, the interest must address an identified problem that the discrimination seeks to remedy." *Id.* Regarding the "compelling state interest" element, the Tenth Circuit found as follows:

> [Defendants] provided only one sentence on compelling interest. They simply assert that "Oklahoma certainly has a compelling interest in determining what law is applied in Oklahoma courts."
>
> Oklahoma's asserted interest is a valid state concern. But this general statement alone is not sufficient to establish a *compelling* interest for purposes of this case. [Defendants] do not identify any *actual problem* the challenged amendment seeks to solve. Indeed, they admitted at the preliminary injunction hearing that they did not know of even a single instance where an Oklahoma court had applied Sharia law or used the legal precepts of other nations or cultures, let alone that such applications or uses had resulted in concrete problems in Oklahoma.
>
> Given the lack of evidence of any concrete problem, any harm [defendants] seek to remedy with the proposed amendment is speculative at best and cannot support a compelling interest. "To sacrifice First Amendment protections for so speculative a gain is not warranted. . . ."
>
> Because [defendants] have failed to assert a compelling interest, they have failed to satisfy strict scrutiny.

Id. at 1130 (internal citations omitted) (emphasis in original).

Further, "[w]ithout a compelling interest based on an actual problem, the second step of the strict scrutiny analysis – whether there is a close fit with a compelling state interest – is unnecessary and not feasible." *Id.* In its opinion, the Tenth Circuit made the following observations regarding the "closely fitted" element:

> The proposed amendment goes further than preventing courts from "applying" Sharia law. The amendment forbids state courts from "considering" those laws. Even if the state could identify and support a reason to single out and restrict Sharia law in its courts, the amendment's complete ban of Sharia law is hardly an exercise of narrow tailoring. [Defendants] have not carried their burden to show why the proposed amendment is "closely fitted" to a compelling interest.

Id. at 1131.

In their response and cross-motion for summary judgment, defendants have submitted no additional evidence of a "compelling state interest." Further, in their response and cross-motion, defendants effectively concede that the Tenth Circuit has held that the references to Sharia law violated the Establishment Clause. Having carefully reviewed the parties' submissions, and for the same reasons set forth by the Tenth Circuit, the Court finds that defendants have failed to assert a compelling state interest and have, therefore, failed to satisfy strict scrutiny. Because defendants have failed to satisfy strict scrutiny, the Court finds that the proposed amendment's references to Sharia law violate the Establishment Clause. Accordingly, the Court finds that plaintiffs have proven actual success on the merits.

c. Severability

In their response and cross-motion, defendants alternatively assert that if this Court ultimately finds that SQ 755 violates the Establishment Clause, this Court should sever the offending portions of SQ 755, leaving as much of the amendment intact as possible. Defendants then suggest that SQ 755 could be parsed as follows:

> The Courts . . . when exercising their judicial authority, shall uphold and adhere to the law as provided in the United States Constitution, the Oklahoma Constitution, the United States Code, federal regulations promulgated pursuant thereto, established common law, the Oklahoma Statutes and rules promulgated pursuant thereto, and

> if necessary the law of another state of the United States ~~provided the law of the other state does not include Sharia Law~~, in making judicial decisions. The courts shall not look to the legal precepts of other nations or cultures. ~~Specifically, the courts shall not consider international law or Sharia Law.~~ The provisions of this subsection shall apply to all cases before the respective courts including, but not limited to, cases of first impression.

Defendants' Response to Plaintiffs' Motion for Summary Judgment and Cross Motion for Summary Judgment and Brief in Support at 20-21.

"A severability analysis is necessary when some, but not all, provisions of an enactment are to be condemned as unconstitutional and hence void." *Liddell v. Heavner*, 180 P.3d 1191, 1203-04 (Okla. 2008). Oklahoma's severability statute provides, in pertinent part:

> In the construction of the statutes of this state, the following rules shall be observed:
> 1. For any act enacted on or after July 1, 1989, unless there is a provision in the act that the act or any portion thereof or the application of the act shall not be severable, the provisions of every act or application of the act shall be severable. If any provision or application of the act is found to be unconstitutional and void, the remaining provisions or applications of the act shall remain valid, unless the court finds:
>
> a. the valid provisions or application of the act are so essentially and inseparably connected with, and so dependent upon, the void provisions that the court cannot presume the Legislature would have enacted the remaining valid provisions without the void one; or
>
> b. the remaining valid provisions or applications of the act standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Okla. Stat. tit. 75, § 11a. This statute requires that a court determine the following: (1) whether the purpose of the statute would be significantly altered by severing the offending language; (2) whether the Legislature would have enacted the remainder of the statute without the offending language; and

(3) whether the non-offending language is capable of standing alone. *See Okla. Corr. Prof'l Ass'n, Inc. v. Jackson*, 280 P.3d 959, 965 (Okla. 2012).

Additionally,

> [w]hen construing a constitutional amendment that was proposed by the Legislature pursuant to Okla. Const. art. 24, § 1 and 34 O.S.2001 § 9(C), [a] Court will read the ballot title together with the text of the measure, even if the text of the measure contains no ambiguities or absurdities. [A] Court will do so because those who framed and adopted the amendment considered the text of the measure and its ballot title together. The understanding of the Legislature as the framers and of the electorate as the adopters of the constitutional amendment is the best guide for determining an amendment's meaning and scope, and such understanding is reflected in the language used in the measure and the ballot title.

Sw. Bell Tel. Co. v. Okla. State Bd. of Equalization, 231 P.3d 638, 642 (Okla. 2009) (internal citation omitted). Further, because the proposed amendment to the Oklahoma Constitution was a ballot initiative submitted to the Oklahoma voters, the amendment is not severable if plaintiffs can show that the voters would not have approved the amendment without the unconstitutional provisions. "[T]he intention of the voter is to be ascertained from the language of his ballot interpreted in the light of the circumstances of a public nature surrounding the election." *North v. McMahan*, 110 P. 1115, 1119 (Okla. 1910).

Having carefully reviewed the parties' submissions, the Court finds that the unconstitutional Sharia law provisions are not severable from the remainder of the proposed amendment and the whole amendment must fall. Specifically, the Court finds that the purpose of the amendment would be significantly altered by severing the offending language and that the Legislature would not have enacted the remainder of the amendment without the offending language. Having reviewed the numerous statements by the legislators who authored the amendment, it is abundantly clear that the

primary purpose of the amendment was to specifically target and outlaw Sharia law and to act as a preemptive strike against Sharia law to protect Oklahoma from a perceived "threat" of Sharia law being utilized in Oklahoma courts. That specifically banning Sharia law was the primary purpose of the amendment is further shown by the fact that in conference, Oklahoma legislators inserted an additional Sharia law provision allowing courts to consider the law of another state of the United States only if "the law of the other state does not include Sharia Law." By contrast, no similar restriction was added limiting the use of other states' law where it includes international law or the "legal precepts of other nations or cultures."

Furthermore, the Court finds that plaintiffs have shown that the voters would not have approved the amendment without the unconstitutional provisions. Having carefully reviewed the evidence submitted in support of plaintiffs' motion for summary judgment, the Court finds that the public debate, public discussions, articles, radio ads and robocalls regarding SQ 755 all primarily, and overwhelmingly, focused on the Sharia law provisions of the amendment. Given this context, the Court finds any reasonable voter would have perceived SQ 755 as a referendum on Sharia law.

Additionally, and perhaps most importantly, the issue of "legal precepts of other nations or cultures" was not included in the ballot title. Therefore, whether the Oklahoma courts should be barred from looking to the "legal precepts of other nations or cultures" was not considered by the voters when casting their vote on SQ 755. Thus, only the Oklahoma Legislature voted on the issue of "legal precepts of other nations or culture." The Court finds that severing the amendment to include a prohibition of only the "legal precepts of other nations or cultures" would result in a violation of Article 24, Section 1 of the Oklahoma Constitution. The Court further finds that severing the Sharia law provisions from the amendment, and leaving only the prohibition of

considering "legal precepts of other nations or cultures," would result in an amendment to the Oklahoma Constitution by implication – the intent of the voters to approve the amendment with the "legal precepts of other nations or culture" language would have to be implied. However, it is against Oklahoma law to amend the Oklahoma Constitution by implication. *See Sw. Bell Tel. Co. v. Okla. Corp. Comm'n*, 897 P.2d 1116, 1122 (Okla. 1995).

Therefore, the Court finds that severance of the unconstitutional provisions of the amendment is not proper.

B. Irreparable Harm

"When an alleged constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Awad*, 670 F.3d at 1131 (internal quotations and citation omitted). Further, the United States Supreme Court has held "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Accordingly, the Court finds that plaintiffs have shown that they will suffer irreparable injury in the absence of injunctive relief.

C. Balance Of Harms

The Tenth Circuit has held that "when the law that voters wish to enact is likely unconstitutional, their interests do not outweigh Mr. Awad's in having his constitutional rights protected." *Awad*, 670 F.3d at 1131. Because the Court has found that the Sharia law provisions of the amendment are unconstitutional, the Court finds that the balance of harms weighs even more in favor of plaintiffs' having their constitutional rights protected. Additionally, the Court finds that any harm that would result from permanently enjoining the certification of the election results is

further minimized in light of the undisputed fact that the amendment at issue was to be a preventative measure and that the concern that it seeks to address has yet to occur.[3]

Accordingly, the Court finds the threatened injury to plaintiffs outweighs the harm that a permanent injunction may cause defendants.

D. Public Interest

Finally, the Court finds that entry of a permanent injunction enjoining defendants from certifying the election results for SQ 755 would not be adverse to the public interest. While the public has an interest in the will of the voters being carried out, the Court finds that the public has a more profound and long-term interest in upholding an individual's constitutional rights. As the Sixth Circuit has stated, "[i]t is always in the public interest to prevent the violation of a party's constitutional rights." *G&V Lounge, Inc. v. Mich. Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994). Accordingly, the Court finds that plaintiffs have shown that a permanent injunction would not be adverse to the public interest.

[3]Defendants admitted at the preliminary injunction hearing that they did not know of any instance where an Oklahoma court had applied Sharia law or used the legal precepts of other nations or cultures.

IV. CONCLUSION

Therefore, for the reasons set forth above, the Court GRANTS plaintiffs' Motion for Summary Judgment [docket no. 72], DENIES defendants' Cross Motion for Summary Judgment [docket no. 78], and FINDS that defendants should be permanently enjoined from certifying the election results for SQ 755.

IT IS SO ORDERED this 15th day of August, 2013.

VICKI MILES-LaGRANGE
CHIEF UNITED STATES DISTRICT JUDGE

Oklahoma State Election Board

ROOM B-6 • BOX 53156 • STATE CAPITOL • OKLAHOMA CITY, OKLAHOMA 73152 • (405) 521-2391

August 1, 2014

The Honorable Mary Fallin
Governor of the State of Oklahoma
212 State Capitol Building
Oklahoma City, Oklahoma 73105

Dear Governor Fallin:

Please be advised that by order of the United States District Court for the Western District of Oklahoma in the matter of *Awad v. Ziriax* (Case 5:10-cv-01186-M), said order having been confirmed by the United States Tenth Circuit Court of Appeals, the State Election Board is permanently enjoined from certifying the election results for State Question 755, Legislative Referendum 355, that appeared on the ballot at the General Election held November 2, 2010.

As a result of this court order, no certification of results for State Question 755, Legislative Referendum 355 shall be made by the State Election Board as otherwise would have been required by 26 O.S. 2011, § 12-118. Should you have any questions about this matter, please contact the Office of the Attorney General of the State of Oklahoma.

Sincerely,

Paul Ziriax

PAUL ZIRIAX, Secretary
Oklahoma State Election Board

PZ:aw

c: The Honorable Chris Benge, Secretary of State
The Honorable Brian Bingman, President Pro Tempore
The Honorable Jeff Hickman, Speaker of the House