



State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box 112
TRENTON, NJ 08625-0112

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

GURBIR S. GREWAL
Attorney General

MICHELLE L. MILLER
Director

February 4, 2020

Via Hand Delivery

Hon. Paul Innes, P.J.Ch.
Civil Courthouse
175 South Broad Street, 3rd Floor
Trenton, NJ 08650

Re: Glassman, et al. v. Grewal
Docket No.: MER-C-53-19

**DEFENDANT'S OPPOSITION TO MARGARET DORE'S MOTION TO
APPEAR AS AMICUS CURIAE**

Dear Judge Innes:

Please accept this letter on behalf of Defendant Gurbir S. Grewal, Attorney General of the State of New Jersey, in opposition to Margaret Dore's motion to appear as amicus curiae in this matter.

ARGUMENT

- I. **DORE'S MOTION SHOULD BE DENIED BECAUSE HER BRIEF INTRODUCES ARGUMENTS AND ISSUES NOT PREVIOUSLY PLED BY PLAINTIFFS.**

Dore's motion should be denied because it does not comport with the court rules governing amicus briefs or the case law interpreting same. Under R. 1:13-9, a motion to appear amicus



curiae will only be granted if it "is timely, the applicant's participation will assist in the resolution of an issue of public importance, and no party to the litigation will be unduly prejudiced thereby." Importantly, "an amicus curiae must accept the case before the court as presented by the parties and cannot raise issues not raised by the parties." Bethlehem Twp. Bd. of Educ. v. Bethlehem Twp. Educ. Ass'n, 91 N.J. 38, 48-49 (1982); see also State v. J.R., 227 N.J. 393, 421 (2017) ("This Court does not consider arguments that have not been asserted by a party, and are raised for the first time by an amicus curiae."); Fed. Pac. Elec. Co. v. N.J. Dep't of Env'tl Prot., 334 N.J. Super. 323, 345 (App. Div. 2000) (amici curiae "must accept the issues as framed and presented by the parties").

Here, Dore's brief goes beyond the scope of the issues presented in Plaintiffs' Fourth Amended Complaint. Dore's brief is premised entirely on the theory that the Act violates the "single object rule" of the New Jersey Constitution. Plaintiffs have never advanced this argument, nor did they include it in their most recent amended pleading. Indeed, Dore herself acknowledges that this is the first time this theory has been raised. Her Notice of Motion states: "Other than Dore's brief, the lack of constitutionality has not previously raised herein and appears to

be dispositive of the case."¹

Because Dore's brief is premised exclusively on a novel issue not raised in Plaintiffs' complaint, the court will not be aided by additional briefing or oral argument on this issue, and her motion should be denied.²

II. THE MEDICAL AID IN DYING FOR THE TERMINALLY ILL ACT DOES NOT VIOLATE THE SINGLE OBJECT RULE.

If the court is inclined to entertain Dore's amicus brief, her claim that the Act violates the "single object rule" lacks merit. The single object rule states:

To avoid improper influence which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

[N.J. Const. art. IV, § 7, ¶ 4.]

Our Supreme Court has explained that the single object rule was designed to protect against:

the extreme, the 'pernicious,' the incongruous; the manifestly repugnant; the

¹ Although Plaintiffs have not argued that the Act violates the single object rule, Plaintiffs have questioned the constitutionality of the Act under other theories; the constitutionality of the Act has already been fully briefed by the parties.

² Additionally, this matter has already followed a protracted procedural posture and is ripe for dismissal. Allowing Dore to interject at this late juncture (especially introducing new issues for consideration) will only serve to prolong the resolution of this matter and unnecessarily burden juridical resources.

palpable contravention of the constitutional command; fraud or overreaching or misleading of the people; the inadvertent; the 'discordant;' or 'the intermixing in one and the same act [of] such things as have no proper relation to each other;' or matters which are 'uncertain, misleading or deceptive.'

[Cambria v. Soaries, 169 N.J. 1, 11 (2000), (quoting N.J. Ass'n on Corr. v. Lan, 80 N.J. 199, 212 (1979)).]

The Court went on to explain that the purpose of the single object rule is chiefly to ensure relatedness among the components of legislative acts:

"All that is required is that the act should not include legislation so incongruous that it could not, by any fair intendment, be considered germane to one general subject. The subject may be as comprehensive as the legislature chooses to make it, provided it constitutes, in the constitutional sense, a single subject, and not several. The connection or relationship of several matters, such as will render them germane to one subject and to each other, can be of various kinds, as, for example, of means to ends, of different subdivisions of the same subject, or that all are designed for the same purpose, or that both are designated by the same term. Neither is it necessary that the connection or relationship should be logical; it is enough that the matters are connected with and related to a single subject, in popular signification."

[Ibid. (quoting Lan, 80 N.J. at 215.)]

Thus, "to survive a challenge based on the single object rule, the State need show only that the individual parts of a statute or of a bond issue meet the 'relatedness' test." Id. at 12; see also

Bucino v. Malone, 12 N.J. 330, 343-44 (1953) (holding that single object rule is not violated when act's title "embrace[s] but one general purpose" and "[a]ll provisions of the act are in furtherance of this purpose"). Moreover, since 1937, our Supreme Court has held that "it is the settled rule that a statute will not be judicially declared inoperative and unenforceable on this ground unless it is plainly in contravention of the constitutional mandate." Pub. Serv. Elec. & Gas Co. v. Camden, 118 N.J.L. 245, 255 (1937) (emphasis added) (citations omitted). In this regard,

statutory titles are "to be liberally treated, so as to validate the law to which they appertain, if such course be reasonably practicable. In such a connection hypercriticism is utterly out of place, the only requirement being that the title of the statute shall express its object in a general way so as to be intelligible to the ordinary reader."

[Id. at 250-51 (citations omitted).]

This "relatedness test" is readily met. See, e.g., Cambria, 169 N.J. at 12 (that although Resolution made changes to Constitution, "each change furthers the same purpose: to dedicate additional monies to the Transportation Trust Fund thereby giving it greater stability in years to come"); Lan, 80 N.J. at 216 (bond proposal was constitutional because its purpose was to build facilities for those who were "in custody or other circumstances [and so had] need for State care, protection and rehabilitation,"

all of which were related through that purpose); State v. Churchdale Leasing, Inc., 115 N.J. 83, 111 (1989) (holding New Jersey Transportation Trust Fund Authority Act constitutional under single object rule because "[a]lthough diverse, the Act's provisions further its express purpose: the preservation of a sound, balanced transportation system through the provision of a stable source of funding"); Parking Auth. of Atlantic City v. Bd. of Chosen Freeholders, 180 N.J. Super. 282, 300 (Law Div. 1981) (sustaining act establishing public agency to implement public transportation system and ordering dissolution of pre-existing municipal parking authorities under single object rule because component parts of act served common purpose to create one agency with powers that do not overlap those of other agencies); Bucino v. Malone, 12 N.J. 330, 343 (1953) (Faulkner Act did not violate single object rule because general purpose of Act was clear and title was "in no way misleading or deceptive"); Jersey City v. Martin, 126 N.J.L. 353, 364 (E. & A. 1941) (statute that authorized respondent to assess license taxes on utilities for use of public streets and highways embraced single object); Pub. Serv. Elec., 118 N.J.L. at 248-51 (Sup. Ct. 1937) (upholding constitutionality of "An Act concerning municipalities").

**A. The Act And All Of Its Provisions Embrace
The Single Purpose Of Affirming The Right
Of Qualified Terminally Ill Patients To
Request Medical Aid In Dying.**

The Act easily meets the relatedness test. First, the title of the Act is not deceptive or misleading. The short title of the Act is the "Medical Aid in Dying for the Terminally Ill Act." N.J.S.A. 26:16-1. This title accurately captures the intended purpose for which the Act was passed: to affirm "the right of a qualified terminally ill patient, protected by appropriate safeguards, to obtain medication that the patient may choose to self-administer in order to bring about the patient's humane and dignified death." N.J.S.A. 26:16-2(a). Furthermore, the Act sets forth clear definitions and inclusion criteria specifying who may participate in requests for medical aid in dying and who may be considered a qualified terminally ill patient under the Act. See N.J.S.A. 26:16-3; N.J.S.A. 26:16-7. Because the purpose of the Act is to provide "medical aid in dying for the terminally ill," and because its provisions are all related to this purpose, the title is not misleading or deceptive.

Second, the Act clearly embraces a single purpose. The Act creates a detailed procedural framework with numerous safeguards narrowly tailored to help patients exercise their rights under the Act in a safe and responsible manner. N.J.S.A. 26:16-2(c). All of the Act's provisions are directly related to

and further the Act's express purpose.

Accordingly, the Act does not violate the single object rule of the New Jersey Constitution.

B. The Act Does Not Allow Involuntary Participation Or Euthanasia In Purpose Or Practice.

Dore's argument that the Act violates the single object rule is premised on her misstatement that the Act permits involuntary participation and euthanasia. This premise is deeply flawed.

Dore claims that "[t]he Act is not required to be voluntary." Dore Brief at 12. This is untrue. As emphasized in previous filings, the Act explicitly provides that participation shall be strictly voluntary. To ensure that all requests for medication are voluntary, the Act requires that both the patient's attending physician and consulting physician confirm "that the patient is capable and acting voluntarily." N.J.S.A. 26:16-6(a)(1)-(4); N.J.S.A. 26:16-7.

Additionally, Dore claims that "the Legislature and also participants in this action were misled as to whether euthanasia is allowed." Dore Brief at 12. This is also untrue. The Act specifically provides that nothing in the Act shall be construed to "authorize a physician or any other person to end a patient's life by lethal injection, active euthanasia, or mercy killing, or

any act that constitutes assisted suicide under any law of this State." N.J.S.A. 26:16-15(a). The Act provided for the amendment of N.J.S.A. 2C:11-6 to clarify that "[a]ny action taken in accordance with the provisions of [the Act] shall not constitute suicide or assisted suicide." Elsewhere, the Act further specifies that "[a]ny action taken in accordance with the provisions of [the Act] shall not constitute patient abuse or neglect, suicide, assisted suicide, mercy killing, euthanasia, or homicide under any law of this State." N.J.S.A. 26:16-17.

Ultimately, the concerns raised in Dore's brief are premised on a misreading of the Act. Her arguments also rely heavily on various hypothetical fact patterns in which bad actors intentionally violate the plain terms of the Act. See Dore Brief at 4, 11-12. Not only has no plaintiff alleged facts remotely resembling those posited by Dore, the possibility that someone may violate the express provisions of the Act is not evidence that the Act or its requirements are ambiguous or unconstitutional. In short, Dore has failed to identify any infirmity in the Act.

CONCLUSION

For these reasons, Dore's amicus brief offers no assistance to the court in deciding the substantive legal claims brought by Plaintiffs in this action, and her motion should be denied.

Respectfully submitted,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
Francis X. Baker (107152014)
Deputy Attorney General

cc: Margaret K. Dore, Esq. (via overnight mail)
E. David Smith, Esq. (via electronic mail)