

No. 92605-1

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**SUPREME COURT OF THE STATE OF WASHINGTON**

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STATE OF WASHINGTON,

Respondent,

v.

ZYION HOUSTON-SCONIERS AND TRESON ROBERTS,

Petitioners.

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**MOTION OF AMERICAN CIVIL LIBERTIES UNION OF  
WASHINGTON, CENTER FOR CHILDREN & YOUTH JUSTICE,  
COLUMBIA LEGAL SERVICES, TEAM CHILD, WASHINGTON  
ASSOCIATION OF CRIMINAL DEFENSE LAWYERS and  
WASHINGTON DEFENDER ASSOCIATION, ET. AL, FOR  
LEAVE TO FILE *AMICI CURIAE* BRIEF**

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*Attorneys for Amici Curiae*

*Amici* respectfully move, pursuant to RAP 10.6, to file an *Amicus Curiae* Brief on the issue described below. This Court has previously granted leave to file a memorandum in support of the petition for review by the parties identified in this brief.

**I. IDENTITY AND INTEREST OF AMICI**

*A. American Civil Liberties Union of Washington*

The American Civil Liberties Union of Washington (“ACLU-WA”) is a statewide, nonpartisan, nonprofit organization of over 50,000 members and supporters, dedicated to the preservation of civil liberties, including the rights of juveniles charged with criminal offenses. The constitutional requirement of due process protected by the 5th and 14th Amendments of the United States Constitution and Art. 1, sec. 3 of the Washington Constitution is a fundamental civil liberty. As part of due process, the ACLU-WA strongly supports consideration of individual circumstances and the exercise of judicial discretion in deciding whether youth should be subjected to adult court proceedings and sentences. The ACLU-WA has participated in numerous cases as *amicus curiae* or as counsel to parties on this and related issues.

*B. The Center for Children & Youth Justice*

The Center for Children & Youth Justice (CCYJ) is a 501(c)(3) non-profit with a mission to improve – through systems reform – the outcomes of children and youth who enter the juvenile justice, child welfare, and related systems. CCYJ works to ensure that such systems are integrated, unbiased, fueled with innovative ideas, and backed by rules and programs proven to achieve the best outcomes for children, youth, and young adults. One of CCYJ’s programs provides free limited legal advice to and/or secures pro bono counsel for youth and young adults on a variety of civil legal issues, often related to the collateral consequences of criminal records. CCYJ has previously sought and received leave to file *amicus* briefing on issues related to the treatment of youth and young adults.

*C. Columbia Legal Services*

Columbia Legal Services (CLS) is a non-profit law firm that represents low income Washingtonians on a variety of legal issues. Juvenile justice and sentencing reform are important priorities that CLS pursues on behalf of its clients. CLS has sought and received leave to file *amicus* briefs on similar issues in the past.

*D. TeamChild*

TeamChild is a nationally recognized, non-profit civil legal advocacy program for low-income children at risk of involvement or already involved with juvenile and adult courts in Washington State. With offices in King, Snohomish, Yakima, Pierce, and Spokane counties, TeamChild lawyers advocate for low-income youth across the state to help them access their basic civil rights to education, health care, safe and stable housing and other social services. TeamChild has participated as amicus in many cases involving the legal rights and civil liberties of youth and children in Washington State and nationally.

*E. The Washington Association of Criminal Defense Lawyers*

The Washington Association of Criminal Defense Lawyers (“WACDL”) was formed to improve the quality and administration of justice. A professional bar association founded in 1987, WACDL has over 1000 members – private criminal defense lawyers, public defenders, and related professionals committed to preserving fairness and promoting a rational and humane criminal justice system. WACDL joins this brief as a part of its mission to promote justice and protect individual constitutional rights.

*F. The Washington Defender Association*

The Washington Defender Association (“WDA”) is a statewide non-profit organization whose membership consists of public defender agencies, defenders of the indigent, and others who are committed to improving public defense. A primary purpose of WDA is to improve the administration of justice and to stimulate efforts to remedy inadequacies in substantive and procedural law that contribute to injustice. WDA has been involved in issues related to juvenile justice and juvenile representation for many years, providing training for defenders in the juvenile justice system and advocated for juvenile justice reform. WDA is particularly interested when the justice system fails to acknowledge and respond to well-established and meaningful aspects of youth that justify treating young offenders differently from mature adult offenders. WDA has previously been granted leave to file amicus briefs on numerous issues related to criminal defense and representation of the indigent defendants.

*G. Professor Kimberly Ambrose (in her personal capacity)*

Professor Kimberly Ambrose is a Senior Lecturer at the University of Washington School of Law who teaches Juvenile Justice, Race and the Law, Criminal Justice Policy and the Tools for Social Change: Race and Justice Clinic which focuses on the overrepresentation of children of color in the juvenile and adult criminal justice systems. She has spent over 20

years representing young people in the juvenile and adult criminal justice systems, teaching in the area of juvenile law and supervising law students representing young people and advocating for systemic change.

## **II. FAMILIARITY WITH ISSUES**

*Amici* have obtained copies of, and are familiar with, the briefing submitted by the parties to this Court, the opinion of the Court of Appeals, and the proceedings below. *Amici* are familiar with the scope of the argument presented by the parties and will not unduly repeat arguments raised by any of the parties.

## **III. ISSUE TO BE ADDRESSED BY AMICI**

Whether the right to due process and fundamental fairness requires holding a hearing prior to a youth's decline to adult court to consider whether the transfer is justified in light of the individual circumstances of the youth as well as other factors.

## **IV. WHY AMICI BRIEFING WILL ASSIST THE COURT**

The Court's decision in this case will significantly impact an important area of law in this state: the constitutionality of the automatic decline statute. The statute violates the due process rights of youth charged with certain crimes and eliminates consideration of any individualized circumstances before subjecting a youth to adult court jurisdiction. RCW 13.04.030(1)(e)(v). The significant liberty interests of youth are at stake,

the risk of error without a hearing is great, and the law harms the public interest because it fails to reduce recidivism, creates harmful racial disparities, and had its origins in false and racially biased claims. It is essential that Washington's highest court be able to make a fully-informed decision, and the additional information provided by *Amici* will be helpful to the Court. RAP 10.6(a).

**V. CONCLUSION**

For the foregoing reasons, *Amici* respectfully request that the Court grant leave to file the attached amicus Brief.

Respectfully submitted this 9th day of September, 2016.



By: \_\_\_\_\_

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