

FILED
SUPREME COURT
STATE OF WASHINGTON
7/25/2019 3:56 PM
BY SUSAN L. CARLSON
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No. 96183-2

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Petitioner,

v.

JOEL VILLELA,
Respondent.

MOTION OF AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON, WASHINGTON DEFENDER ASSOCIATION,
WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE
LAWYERS, AND INSTITUTE FOR JUSTICE FOR LEAVE TO
FILE AMICI CURIAE BRIEF

AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON FOUNDATION

WASHINGTON DEFENDER
ASSOCIATION

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Justice*

I. INTRODUCTION

The American Civil Liberties Union of Washington (“ACLU”), Washington Defender Association (“WDA”), Washington Association of Criminal Defense Lawyers (“WACDL”), and Institute for Justice (“IJ”) respectfully move for permission to file the attached brief as amici curiae.

II. IDENTITY AND INTEREST OF AMICI

The ACLU of Washington is a statewide, nonpartisan, nonprofit organization with over 135,000 members and supporters, dedicated to the preservation and defense of constitutional and civil liberties. The ACLU strongly supports adherence to the Fourth Amendment of the U.S. Constitution and Article I, Section 7 of the Washington State Constitution, including protections against unreasonable seizure of a person’s property. The ACLU has participated in numerous constitutional cases as amicus curiae, as counsel to parties, and as a party itself.

WDA is a statewide non-profit organization that represents over 30 public defender agencies and has over 1,500 members comprising criminal defense attorneys, investigators, social workers and paralegals throughout Washington. WDA is committed to protecting the rights of people accused of crimes under the Washington and United States Constitutions. WDA representatives frequently testify before the Washington House and

Senate on proposed legislation affecting indigent defense. WDA has been granted leave on many occasions to file amicus briefs in the Washington Court of Appeals and the Washington Supreme Court. The issues in this case are important to public defenders and their clients.

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 around 800 members, made up of private criminal defense lawyers, public defenders, and related professionals. It was formed to promote the fair and just administration of criminal justice and to ensure due process and defend the rights secured by law for all persons accused of crime. It regularly files amicus briefs in cases addressing important questions for criminal defendants and the criminal justice system in Washington.

The Institute for Justice (“IJ”) is a nationwide nonprofit, public-interest law firm with an office in Seattle. IJ is committed to protecting constitutional rights regarding the right of individuals to be free from governmental intrusion in their personal affairs absent consent or legal authority. IJ also regularly litigates cases involving the government’s seizure of personal property. This case thus falls squarely within two areas of direct concern for IJ.

III. FAMILIARITY WITH ISSUES

Amici have reviewed all of 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 arguments presented by the parties and will not unduly repeat the arguments that have been raised.

IV. ISSUE TO BE ADDRESSED BY AMICI

Can the legislature unilaterally change the protections of Article I, Section 7 of the Washington State Constitution and mandate that all vehicles driven by persons arrested for being under the influence be impounded, with the consequence of an attendant search, even if reasonable alternatives to impoundment exist?

V. WHY AMICI BRIEFING WILL ASSIST THE COURT

This case presents an important issue to the Court: whether the legislature can change the protections of the Washington State Constitution. This compelling question requires the Court to look closely at case law and well-established constitutional principles in addition to the particular facts and arguments in this case.

Additionally, the Court's decision on the issues in this case will significantly affect the law on vehicle impoundment, searches, and

seizures. A fully informed decision from Washington's highest court is essential, and the additional argument provided by amici will be helpful to the Court. The parties naturally focus on the particular facts of this case and arguments in favor of a positive result for their clients. Amici can provide a wider perspective that goes beyond the needs of the individual parties in this case, helping the Court's understanding of when impoundment violates the Constitution.

VI. CONCLUSION

Amici respectfully request that the Court grant leave to file the Amici Curiae Brief that is submitted contemporaneously with this motion.

DATED: July 25, 2109

Respectfully Submitted,

**AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON FOUNDATION**

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Transmittal Information

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Appellate Court Case Number: 96183-2
Appellate Court Case Title: State of Washington v. Joel A. Villela
Superior Court Case Number: 18-1-00030-3

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