

FILED
SUPREME COURT
STATE OF WASHINGTON
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No. 94950-6

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

In Re the Personal Restraint Petition of

KEVIN LIGHT-ROTH,

Respondent.

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*
BY AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON
AND WASHINGTON ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS**

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I. RELIEF REQUESTED

Pursuant to Rule of Appellate Procedure 10.6, the American Civil Liberties Union of Washington and Washington Association of Criminal Defense Lawyers hereby move for leave to file the attached Brief of *Amici Curiae* in support of Kevin Light-Roth. *Amici* respectfully submit this brief on the grounds that it would assist the Court in its consideration of the important issues arising in this case concerning the legal analysis for demonstrating timeliness of the Personal Restraint Petition and the retroactive application of *State v. O'Dell*, 183 Wn.2d 680, 358 P.3d 359 (2015).

II. IDENTITY AND INTEREST OF AMICI

A. American Civil Liberties Union of Washington Foundation

The American Civil Liberties Union of Washington Foundation (“ACLU”), is a statewide, nonprofit, nonpartisan organization with over 80,000 members and supporters. It is dedicated to the preservation and defense of civil liberties and civil rights, and has particular interest and expertise in the issues surrounding the sentencing of young people.

B. 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

800 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.

III. 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. *Amici* have extensive legal and practical experience in issues regarding the sentencing of juveniles and young adults.

IV. SPECIFIC ISSUES TO BE ADDRESSED

Amici argue in the brief filed with this Motion that Mr. Light-Roth's personal restraint petition satisfies the exception to the one-year time limit for collateral attacks under RCW 10.73.100(6) because this Court's holding in *O'Dell* resulted in a significant, material, and retroactive change in the law.

V. NEED FOR ADDITIONAL ARGUMENT

Amici's specific expertise and experience with issues related to the developmental characteristics of adolescents, the sentencing of young people, and retroactivity under Washington law will assist the Court in analyzing this case. *Amici* have previously assisted this Court by filing *amicus* briefs in *O'Dell*, 183 Wn.2d 680, 358 P.3d 359, *In re Pers. Restraint of Tsai*, 183 Wn.2d 91, 351 P.3d 138 (2017), and *State v. Scott*, Washington Supreme Court No. 94020-7, among others. *Amici* are able to aid the Court by providing a broader perspective to arguments and authority, which supplements the parties' briefs.

VI. CONCLUSION

For the foregoing reasons, *Amici* respectfully request that the Court grant this motion and permit them to file the attached Brief of *Amici Curiae* in support of Mr. Light-Roth.

RESPECTFULLY SUBMITTED AND DATED this 2nd day of
February, 2018.

ACLU OF WASHINGTON FOUNDATION

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CERTIFICATE OF SERVICE

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I certify under penalty of perjury under the laws of the State of
Washington that the foregoing is true and correct.

DATED this 2nd day of February, 2018.

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