

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
10/1/2018 3:54 PM  
BY SUSAN L. CARLSON  
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No. 95062-8

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SUPREME COURT OF THE STATE OF WASHINGTON

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CESAR BELTRAN-SERRANO, an incapacitated person, individually,  
and BIANCA BELTRAN as guardian *ad litem* of the person and estate of  
CESAR BELTRAN-SERRANO,

Petitioner.

v.

CITY OF TACOMA, a political subdivision of the State of Washington,

Respondent,

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MOTION FOR LEAVE TO FILE *AMICUS CURIAE*  
MEMORANDUM IN SUPPORT OF PETITION FOR REVIEW

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Attorneys for *Amicus Curiae*

The American Civil Liberties Union of Washington (“ACLU”) respectfully moves, pursuant to RAP 10.6, to file a memorandum as *Amicus Curiae* regarding whether the Supreme Court should accept review of the Court of Appeals decision in this case involving the excessive and unwarranted use of lethal force by a police officer against a Spanish speaking disabled and mentally ill man of Hispanic origin. In support of this motion, *amicus* offers the following information:

**I. IDENTITY AND INTEREST OF AMICUS**

The ACLU is a statewide, nonpartisan, nonprofit organization of over 80,000 members and supporters, dedicated to the preservation of civil liberties. The ACLU strongly supports the prohibition of improper, unreasonable, and excessive lethal force by police officers against civilians in violation of their bodily and personal security. It has participated in numerous excessive force-related cases as *amicus curiae* or as counsel to parties.

**II. FAMILIARITY WITH ISSUES**

*Amicus* has obtained copies of, and is familiar with, the briefing submitted by the parties to this Court, the opinion of the Court of Appeals, and the proceedings below. *Amicus* is 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 *AMICUS***

Whether a government, acting through its law enforcement officers, owes a duty of care to persons with whom those officers interact to act reasonably in using lethal force against such persons under the totality of the circumstances of such interaction.

Whether the public duty doctrine applies to preclude the existence of a common law negligence duty of care to persons against whom law enforcement officers improperly employ lethal force.

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

The Court's decision on whether or not to accept discretionary review of the Court of Appeals opinion below will significantly impact an important area of public concern and deals with the novel argument that police officers should be held liable for breaching their duty of care in negligence under common law principles. Currently, both Washington and federal law provide exceedingly narrow channels for relief for claims such as Beltran-Serrano's that deal with law enforcement officers who employ deadly force against the persons with whom they interact. Therefore, a fully informed decision from Washington's highest court is essential, and the additional argument provided by *amicus* will be helpful to the Court. RAP 10.6.

The parties are naturally most interested in establishment of a rule

that addresses the particular facts of this case and provides a favorable result to their clients. *Amicus* can provide a wider perspective, helping in the establishment of a rule that goes beyond the needs of the specific parties in this case.

## V. CONCLUSION

For the foregoing reasons, the ACLU respectfully requests that the Court grant leave to file the attached *amicus* Memorandum in Support of the Petition for Review.

Respectfully submitted this 1<sup>st</sup> day of October 2018.

KARR TUTTLE CAMPBELL

By: /s/ J. Dino Vasquez

J. Dino Vasquez, WSBA # 25533

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the Supreme Court of The State of Washington and electronically served a true and correct copy this document to the following parties:

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

Dated this 1st day of October, 2018.



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# KARR TUTTLE CAMPBELL

October 01, 2018 - 3:54 PM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 95062-8  
**Appellate Court Case Title:** Cesar Beltran-Serrano v. City of Tacoma  
**Superior Court Case Number:** 15-2-11618-1

### The following documents have been uploaded:

- 950628\_Briefs\_20181001155053SC706281\_0189.pdf  
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Motion 1 - Amicus Curiae Brief  
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### A copy of the uploaded files will be sent to:

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### Comments:

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