

FILED
SUPREME COURT
STATE OF WASHINGTON
12/6/2018 4:16 PM
BY SUSAN L. CARLSON
CLERK

No. 95814-9

THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

Jeremiah Gilbert,

Petitioner

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR KLICKITAT COUNTY

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

Gregory C. Link, 25228
1511 Third Ave., Suite 610
Seattle, WA 98115
206-587-2711

Rita J. Griffith, 14360
4616 25th Ave. N.E., # 453
Seattle, WA 98115
206 547-1742

*Attorneys for Washington
Association of Criminal
Association Defense Lawyers*

Nancy Talner, 11196
Vanessa Hernandez, 42770
ACLU of Washington
901 Fifth Avenue, Suite 630
Seattle, WA 98164
206-624-2184

Hillary Behrman, 22675
Cindy Arends Elsberry, 23127
Washington Defender Association
110 Prefontaine Pl. S., Suite 610
Seattle, WA 98104-2626
206-623-4321

A. RELIEF REQUESTED

Pursuant to RAP 10.6 Washington Association of Criminal Defense Lawyers, American Civil Liberties of Washington, and Washington Defender Association request the Court permit the filing of the attached Brief of *Amici Curiae* in support of Jeremiah Gilbert. *Amici* believe the brief will assist this court in addressing the proper application of *State v. Houston-Sconiers*, 188 Wn.2d 1, 21, 391 P.3d 409 (2017), *State v. Bassett*, __ Wn.2d __, 428 P.3d 343 (2018), and *Miller v. Alabama*, 567 U.S. 460, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012), when children are sentenced as adult.

B. IDENTITY AND INTEREST OF AMICI

Washington Association of Criminal Defense Lawyers (WACDL)

WACDL is a non-profit organization formed in 1987, is dedicated to improving the quality and administration of justice. WACDL has over 800 members consisting of private defense lawyers, public defenders, and related professionals committed to preserving fairness and promoting a rational and humane criminal justice system. WACDL holds many seminars throughout the year to educate lawyers on pertinent issues

related to the defense of citizens accused of crimes, from capital case to misdemeanors and infractions, in Washington. WACDL has previously been granted *amicus* status in numerous Washington appellate cases addressing the sentencing of young offenders.

American Civil Liberties Union of Washington (ACLU)

The ACLU is a statewide, nonpartisan, nonprofit organization with over 75,000 members and supporters dedicated to the preservation of civil liberties. The ACLU strongly supports consideration of youth and other mitigating individual circumstances in sentencing. The ACLU has participated as *amicus curiae* in numerous cases in Washington involving juvenile justice

Washington Defender Association (WDA)

WDA is a non-profit association of over a 1500 public defenders, criminal defense attorneys, investigators, social workers and children's civil rights attorneys throughout the state of Washington. WDA and its members are committed to supporting and improving indigent defense and the lives of indigent defendants and their families. A primary purpose of

WDA is to improve the administration of justice and stimulate efforts to remedy inadequacies in substantive and procedural law that contribute to injustice. For many years, WDA has been actively involved in issues related to youthful offenders, juvenile justice and representation of youth in both the juvenile and adult courts. WDA and its members have previously been granted leave to file amicus briefs on many issues related to criminal defense, representation of the indigent clients and the automatic decline of youth into the adult criminal justice system.

C. FAMILIARITY WITH THE ISSUES

Amici 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 repeat arguments raised by any of the parties. *Amici* have extensive legal and practical experience in issues regarding the sentencing of youth in adult court.

D. ISSUE TO BE ADDRESSED

Whether a court sentencing a child under the provisions of RCW 10.95.030 may impose concurrent sentences

E. NEED FOR ADDITIONAL ARGUMENT

Amici's specific expertise and experience with the juvenile and criminal justice systems, the constitutional rights of children, and the developmental characteristics of young adolescents will assist the Court in analyzing this case. Several of the *Amici* have previously assisted this Court by filing *amicus* briefs in *State v. Bassett*, __ Wn.2d __, 428 P.3d 343 (2018); *State v. Houston-Sconiers*, 188 Wn.2d 1, 27, 391 P.3d 409 (2017); *State v. Ramos*, 187 Wn.2d 420, 454, 387 P.3d 650 (2017). *Amici* here are in the unique position of being able to aid the Court with information pertaining to the unique characteristics of young adolescents and the relevance of these characteristics to juvenile sentencing.

G. CONCLUSION

Amici request that the Court grant this motion and permit them to file the attached *Amicus Curiae* Brief in support of Respondent, Bassett.

Respectfully submitted this 6TH day of December, 2018.

/s/ Gregory C. Link
Gregory C. Link, 25228
1511 Third Ave., Suite 610
Seattle, WA 98115
206-587-2711
206-587-2710(fax)
greg@washapp.org

Rita J. Griffith, 14360
4616 25th Ave. N.E., # 453
Seattle, WA 98115
206 547-1742
Attorneys for *Washington
Association of Criminal
Defense Lawyers*

/s/ Nancy Talner
Nancy Talner, 11196
Vanessa Hernandez, 42770
ACLU of Washington
901 Fifth Avenue, Suite 630
Seattle, WA 98164
206-624-2184
206-624-2190(fax)
talner@aclu-wa.org

/s/ Hillary Behrman
Hillary Behrman, 22675
Cindy Arends Elsberry, 23127
Washington Defender Association
110 Prefontaine Pl. S., Suite 610
Seattle, WA 98104-2626
206-623-4321
hillary@defensenet.org

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
RESPONDENT,)
v.) NO. 95814-9
JEREMIAH GILBERT,)
PETITIONER.)

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 6TH DAY OF DECEMBER, 2018, I CAUSED THE ORIGINAL MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE TO BE FILED IN THE WASHINGTON STATE SUPREME COURT AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

- [X] DAVID QUESNEL, DPA () U.S. MAIL
[] HAND DELIVERY
[X] E-SERVICE VIA PORTAL
JENNIFER JOSEPH, DPA () U.S. MAIL
[] HAND DELIVERY
[X] E-SERVICE VIA PORTAL
RITA GRIFFITH (WACDL) (X) U.S. MAIL
[] HAND DELIVERY
[] E-SERVICE VIA PORTAL
NANCY TALNER () U.S. MAIL
[] HAND DELIVERY
[X] E-SERVICE VIA PORTAL
HILLARY BEHRMAN () U.S. MAIL
[] HAND DELIVERY
[X] E-SERVICE VIA PORTAL

SIGNED IN SEATTLE, WASHINGTON THIS 6TH DAY OF DECEMBER, 2018.

X [Signature]

WASHINGTON APPELLATE PROJECT

December 06, 2018 - 4:16 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 95814-9
Appellate Court Case Title: State of Washington v. Jeremiah James Gilbert
Superior Court Case Number: 92-1-00108-1

The following documents have been uploaded:

- 958149_Briefs_20181206161424SC547002_9635.pdf
This File Contains:
Briefs - Amicus Curiae
The Original File Name was washapp.120618-02.pdf
- 958149_Motion_20181206161424SC547002_1140.pdf
This File Contains:
Motion 1 - Amicus Curiae Brief
The Original File Name was washapp.120618-01.pdf

A copy of the uploaded files will be sent to:

- bannail@seattleu.edu
- changro@seattleu.edu
- cindy@defensenet.org
- davidq@klickitatcounty.org
- hillary@defensenet.org
- jennifer.joseph@kingcounty.gov
- leeme@seattleu.edu
- levinje@seattleu.edu
- nodblspk@rcabletv.com
- paapeals@klickitatcounty.org
- paoappellateunitmail@kingcounty.gov
- talner@aclu-wa.org
- vhernandez@aclu-wa.org

Comments:

Sender Name: MARIA RILEY - Email: maria@washapp.org

Filing on Behalf of: Gregory Charles Link - Email: greg@washapp.org (Alternate Email: wapofficemail@washapp.org)

Address:
1511 3RD AVE STE 610
SEATTLE, WA, 98101
Phone: (206) 587-2711

Note: The Filing Id is 20181206161424SC547002