

Supreme Court No.: 93609-9

Court of Appeals No.: 32354-4-III

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

E.G.,

Petitioner.

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**MOTION OF THE AMERICAN CIVIL LIBERTIES UNION OF  
WASHINGTON FOR LEAVE TO FILE *AMICUS CURIAE*  
MEMORANDUM IN SUPPORT OF REVIEW**

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Attorneys for *Amicus Curiae* American  
Civil Liberties Union of Washington

The party identified below respectfully moves, pursuant to RAP 10.6 and 13.4(h), to file an *Amicus Curiae* Memorandum in Support of Review regarding the issues described below.

**I. IDENTITY AND INTEREST OF *AMICUS***

The moving party herein is the American Civil Liberties Union of Washington (“ACLU”). The ACLU is a statewide, nonpartisan, nonprofit organization with over 50,000 members and supporters dedicated to the preservation of civil liberties. The ACLU has consistently advocated against the criminalization of juvenile behavior. The ACLU favors laws that take account of the characteristics of the juvenile justice system, including its goal of rehabilitation for juvenile offenders. The ACLU has participated as *amicus curiae* in numerous cases in Washington involving the juvenile justice system.

**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. ISSUES TO BE ADDRESSED BY *AMICUS***

1. Whether review is warranted due to the substantial public interest raised by the Court of Appeals’ interpretation of a statute that, if permitted to stand, would make common teenage “sexting” the felony crime of child pornography?
2. Whether review is warranted based on significant questions of constitutional law because the decision

below contravenes decades of jurisprudence holding that child pornography laws are constitutional only when they protect child victims?

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

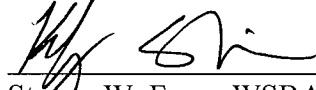
This Court's decision on whether to grant review will significantly impact an important area of law in this state. This case asks the Court to interpret Washington's child pornography statute in a way that does not result in absurd results that are contrary to the purposes of the statute and constitutional law. *Amicus* provides additional authority and analysis in support of Petitioner's arguments which will assist the Court in addressing this issue. Therefore, the requirements of RAP 10.6 and 13.4(h) are met and this Motion should be granted.

**V. CONCLUSION**

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

RESPECTFULLY SUBMITTED this 28th day of October, 2016.

CORR CRONIN MICHELSON  
BAUMGARDNER FOGG & MOORE LLP



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DECLARATION OF SERVICE

The undersigned declares as follows:

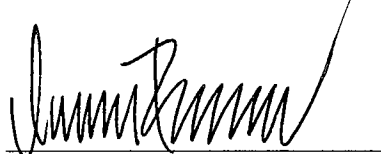
1. I am employed at Corr Cronin Michelson Baumgardner Fogg & Moore LLP, attorneys for *Amicus Curiae* American Civil Liberties Union of Washington.

2. On October 28, 2016, I caused the foregoing to be filed with the Supreme Court of the State of Washington and served on the parties to this action as follows:

Kathleen A. Shea Washington Appellate Project 1511 Third Avenue, Suite 701 Seattle, WA 98101  <i>Attorney for Petitioner</i>	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Mail
Gretchen E. Verhoef Deputy Prosecuting Attorney County-City Public Safety Building West 1100 Mallon Spokane, WA 99260  <i>Attorneys for Respondent</i>	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> E-Mail

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

DATED this 28<sup>th</sup> day of October, 2016, at Seattle, Washington.

  
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Lauren Beers