

No. 93315-4

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**SUPREME COURT OF THE STATE OF WASHINGTON**

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STATE OF WASHINGTON,

Respondent,

v.

BRITTANIE OLSEN,

Petitioner.

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**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF  
AND FOR EXTENSION OF TIME TO FILE**

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The American Civil Liberties Union of Washington (“ACLU”) respectfully moves, pursuant to RAP 10.1(e) and 10.6, to file a brief as *Amicus Curiae* regarding whether suspicionless urinalyses may be required as a condition of probation. The ACLU further respectfully requests a seven-day extension of time to file its *amicus* brief. In support of this motion, the ACLU offers the following information:

**I. IDENTITY AND INTEREST OF AMICUS**

The American Civil Liberties Union of Washington (“ACLU”) is a statewide, nonpartisan, nonprofit organization of over 50,000 members and supporters dedicated to the preservation of civil liberties, including privacy. The ACLU strongly supports adherence to the provisions of Article 1, Section 7 of the Washington State Constitution, prohibiting interference in private affairs without authority of law. It has participated in numerous privacy-related cases both as *amicus curiae* and as counsel to parties.

**II. FAMILIARITY WITH ISSUES**

*Amicus* has obtained copies of, and is familiar with, the briefing submitted thus far by the parties to this Court, the opinion of the Court of Appeals, and the proceedings below. As discussed below, *amicus* requests an extension of filing time so that *amicus* may review the supplemental briefs of the parties after they are filed with this Court. *Amicus* is familiar

with the scope of the argument presented by the parties up to this point but the supplemental briefs will not be filed until December 23, and review of them is necessary in order to not unduly repeat arguments raised by any of the parties.

### **III. ISSUE TO BE ADDRESSED BY AMICUS**

Whether Article 1, Section 7 prohibits courts from ordering suspicionless urinalyses as a condition of probation.

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

The Court's decision on the issue in this case will significantly impact an important area of law in this state affecting a large segment of the public. That area is the routine ordering of suspicionless urinalyses as probationary conditions by courts throughout the state. A fully informed decision from Washington's highest court is essential, and the additional argument provided by the *amicus* brief will be helpful to the Court. RAP 10.6(a). 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 clients in this case.

### **V. FILING DEADLINE RELIEF SOUGHT**

Because oral argument is scheduled for February 16, 2017, *amicus*

briefs are currently due December 30, 2016. The ACLU respectfully requests that this Court extend the time for filing an *amicus* brief until January 6, 2017, seven days after the current *amicus* brief deadline of December 30, 2016, and fourteen days (including major holidays) following the due date for the Parties' supplemental briefs.

## **VI. GROUND FOR RELIEF**

The ACLU brings this Motion pursuant to RAP 18.8, which allows the Court to enlarge the time within which an act must be done in a particular case in order to serve the ends of justice. An extension of time in this instance serves the ends of justice because it would allow the ACLU time to review the supplemental briefs of the Parties that are due on December 23 before filing an *amicus* brief.

The Parties' supplemental briefs were originally due on December 2, 2016. This Court recently granted the Parties in this case an extension of time to file supplemental briefing, until December 23. The current due date for filing an *amicus* brief December 30, only one week after the filing of the Parties' supplemental briefs, with major holidays in between. Extending the due date for an *amicus* brief to January 6, 2017 would allow an adequate opportunity to review the Parties' supplemental briefs. This would ensure that the *amicus* brief does not make repetitive arguments, as required by RAP 10.6. The Parties will still have adequate opportunity to

answer the *amicus* brief. The requested extension will not change the oral argument date. Under the circumstances, granting this Motion for extension of time will not prejudice any party.

## **VII. CONCLUSION**

For the foregoing reasons, the ACLU respectfully requests that the Court grant leave to file an *amicus* brief, and to extend the deadline for filing the *amicus* brief to January 6, 2017.

Respectfully submitted this 5th day of December, 2016.

By



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