

No. 75318-5-I

**COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

IN RE DETENTION OF T.M.L.

**MOTION OF AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

Nancy L. Talner, WSBA #11196
talner@aclu-wa.org
Mark Cooke, WSBA #40155
mcooke@aclu-wa.org
Jessica Wolfe, WSBA Rule 9
#9433648
jwolfe@aclu-wa.org
AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON FOUNDATION
901 Fifth Avenue, Suite 630
Seattle, WA 98164
Telephone: (206) 624-2184

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

The American Civil Liberties Union of Washington (“ACLU”) respectfully moves this Court for leave to file an *amicus curiae* brief (the “Brief”) in the above-captioned matter. At issue in this case is King County Local Mental Proceedings Rule (LMPR) 1.8(b), which requires, for individuals detained at specific video-equipped hospitals, that their hearings including commitment trials be conducted remotely by video unless they can show “good cause” to attend in person.

This Motion is made pursuant to Rule of Appellate Procedure 10.6. RAP 10.6(a) provides that the Court may grant permission to file an *amicus curiae* brief if the brief would “assist the appellate court.” The Brief will assist the Court by providing additional support for Appellant’s argument that King County LMPR 1.8(b) violates T.M.L.’s right to due process of law.

I. IDENTITY AND INTEREST OF *AMICUS*

Amicus ACLU is a statewide, non-partisan, non-profit organization with over 50,000 members, dedicated to the preservation and defense of constitutional civil liberties. The ACLU strongly supports the constitutional right to due process in civil commitment proceedings, since a substantial deprivation of physical liberty is involved, and it has filed numerous amicus briefs in support of that right. *See, e.g., M.W. & W.D. v. Dep’t of Social & Health Servs.*, 185 Wn.2d 633, 374 P.3d 1123 (2016);

D.W. v. Dep't of Social and Health Servs., 181 Wn.2d 201, 332 P.3d 423 (2014).

II. FAMILIARITY WITH ISSUES AND SCOPE OF THE ARGUMENT PRESENTED BY THE PARTIES

Amicus is familiar with the arguments presented by the parties, and the facts and issues in this case based on having reviewed the briefs filed by the parties and the trial court's ruling.

III. ISSUE TO BE ADDRESSED BY AMICUS

Amicus presents legal authority regarding the deprivation of liberty that occurs with civil commitment and the ways in which LMPR 1.8(b) violates T.M.L.'s right to due process.

IV. WHY AMICUS BRIEFING WILL ASSIST THE COURT

Amicus is able to provide additional authority and arguments supporting Appellant's arguments. The questions at issue in this case are of vital importance to *Amicus*' clients, constituents, and members, and the ACLU is thus able to address the impact of the Court's decision on others and on the public interest.

V. CONCLUSION

For the foregoing reasons, *Amicus* requests that the Court grant permission to file the *amicus curiae* brief which is filed with this Motion.

Respectfully submitted this 15th day of February, 2017.

**AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON FOUNDATION**

By: /s/Nancy L. Talner

Nancy L. Talner, WSBA #11196

talner@aclu-wa.org

Mark Cooke, WSBA #40155

mcooke@aclu-wa.org

Jessica Wolfe, WSBA Rule 9 #9433648

jwolfe@aclu-wa.org

AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON FOUNDATION

901 Fifth Avenue, Suite 630

Seattle, WA 98164

Telephone: (206) 624-2184

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

**COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION I**

No. 75318-5-I

In Re Detention of T.M.L.

I declare, under penalty of perjury, under the laws of the State of Washington, that on the date below, I caused to be served a copy of the Motion of American Civil Liberties Union of Washington for Leave to File *Amicus Curiae* Brief via email and submission to the Division I JIS Link system to the following addresses with consent to electronic service:

COUNSEL FOR APPELLANT

Nathan Bays
Lauren Conner
THE DEFENDER ASSOCIATION
KING COUNTY DEPARTMENT OF
PUBLIC DEFENSE
810 Third Avenue, Suite 800
Seattle, WA 98104
Nathan.Bays@kingcounty.gov
Lauren.Conner@kingcounty.gov

COUNSEL FOR RESPONDENT

Aleksandra Letts
Deputy Prosecuting Attorney
KING COUNTY PROSECUTING
ATTORNEY
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
aleksandra.letts@kingcounty.gov

Signed this 15th day of February, 2017, at Seattle, King County, WA.

By: /s/Nancy L. Talner
Nancy L. Talner, WSBA #11196
AMERICAN CIVIL LIBERTIES
UNION OF WASHINGTON
FOUNDATION
901 Fifth Avenue, Suite 630
Seattle, WA 98164
Telephone: (206) 624-2184