

FILED
SUPREME COURT
STATE OF WASHINGTON
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NO. 95012-1

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

WAYLON JAMES HUBBARD,

Petitioner.

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

ACLU OF WASHINGTON
FOUNDATION

Nancy Talner, #11196
Prachi Dave, #50498
901 5th Avenue, Suite 630
Seattle, Washington 98164
(206) 624-2184
talner@aclu-wa.org
pdave@aclu-wa.org

WASHINGTON ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS

Mark W. Muenster, # 11228
1010 Esther Street
Vancouver, WA 98660
(360) 694-5085
markmuen@ix.netcom.com

WASHINGTON DEFENDER
ASSOCIATION

Hillary Behrman, #22675
110 Prefontaine Pl. S, Suite 610
Seattle, WA 98104
(206) 623-4321
Hillary@defensenet.org

Attorneys for Amici Curiae

The American Civil Liberties Union of Washington (“ACLU”), Washington Association of Criminal Defense Lawyers (“WACDL”), Washington Defender Association (“WDA”) respectfully move, pursuant to RAP 13.4(h) and 10.6, to file a memorandum as *Amici Curiae* regarding whether the Supreme Court should accept review of the Court of Appeals decision in this case involving an interpretation of RCW 9.94A.637(c) regarding the effective date of a Certificate of Discharge. In support of this motion, *amici* offer the following information:

I. IDENTITY AND INTEREST OF AMICUS

The ACLU is a statewide, nonpartisan, nonprofit organization of over 75,000 members and supporters, dedicated to the preservation of civil liberties and civil rights. The ACLU strongly supports efforts to reduce the harmful consequences arising out of the criminal justice system, including reducing barriers to reentry. It has worked for years on both policy and legal advocacy to reduce barriers to reentry. It has also participated as *amicus* in numerous Washington cases on reentry issues and on many other criminal justice related issues.

WACDL is a nonprofit association of over 1100 attorneys practicing criminal defense law in Washington State. As stated in its bylaws, WACDL’s objectives include “to protect and insure by rule of law

those individual rights guaranteed by the Washington and Federal Constitutions, and to resist all efforts made to curtail such rights.” WACDL has filed numerous *amicus* briefs in the Washington appellate courts. Many members of WACDL assist their clients in obtaining CODs and vacation orders in their own cases and have been actively involved in legislative efforts such as Ban the Box.

The Washington Defender Association (“WDA”) is a non-profit association representing over 1200 public defenders and 30 defender offices, including criminal defense attorneys, investigators and others throughout the state of Washington. WDA and its members are committed to supporting and improving indigent defense. 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 involved in issues related to reducing the impact of conviction on individuals and their families and improving policy and systems to support individuals going through reentry. WDA and its members have previously been granted leave to file *amicus* briefs on many issues related to criminal defense and representation of the indigent. The WDA has approved the filing of this motion and the accompanying memorandum.

II. FAMILIARITY WITH ISSUES

Amici have obtained copies of, and 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 unduly repeat arguments raised by any of the parties.

III. ISSUE TO BE ADDRESSED BY AMICI

Whether the Court of Appeals erred in its interpretation of RCW 9.94A.637 regarding the effective date of a COD and whether the COD can be dated only as of the date that the court received adequate verification that an individual has completed the terms of their sentence.

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 the scope of relief offered by RCW 9.94A.637, which affects thousands of individuals in the state of Washington who are seeking to overcome the impediment of having prior criminal convictions and involves issues of substantial public interest. A fully informed decision by this Court is essential in this area and the additional argument provided by *amici* will be helpful to the Court. RAP 13.4(h).

V. CONCLUSION

For the foregoing reasons, the ACLU and WACDL respectfully request that the Court grant leave to file the attached *amici* Memorandum in Support of the Petition for Review.

Respectfully submitted this 20th day of November 2017.

By: /s/Nancy Talner
Nancy Talner, #11196
Prachi Dave, #50498
901 5th Avenue, Suite 630
Seattle, Washington 98164
(206) 624-2184
talner@aclu-wa.org
pdave@aclu-wa.org
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OF CRIMINAL DEFENSE
LAWYERS

Hillary Behrman, #22675
110 Prefontaine Pl. S, Suite 610
Seattle, WA 98104
(206) 623-4321
Hillary@defensenet.org
WASHINGTON DEFENDER
ASSOCIATION

***Counsel for Amici Curiae ACLU of
Washington Foundation, WACDL,
and WDA.***

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Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 95012-1
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The following documents have been uploaded:

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- sarahg@nwjustice.org
- tanyas@nwjustice.org

Comments:

These documents are in fact a Motion for Leave to File an Amici Curiae Memorandum and the associated Memorandum and Certificate of Service rather than a Brief of Amici.

Sender Name: Legal Assistant - Email: legalprogramassistant@aclu-wa.org

Filing on Behalf of: Nancy Lynn Talner - Email: talner@aclu-wa.org (Alternate Email:)

Address:
901 5th Avenue, Suite 630
Seattle, WA, 98164
Phone: (206) 624-2184

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