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SUPREME COURT
STATE OF WASHINGTON
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No. 101477-5

SUPREME COURT
OF THE STATE OF WASHINGTON

BRUCE A. WOLF, as Personal Representative of the Estate of
TIMOTHY JONES, Deceased,

Petitioner,

v.

STATE OF WASHINGTON,

Respondents.

MEMORANDUM OF *AMICUS CURIAE*
CONNELLY LAW OFFICES ON REVIEW

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A. INTRODUCTION

This is a Supreme Court case. Division II's published opinion provides a discordant interpretation of a vital statute, RAP 4.16.340(1)(c), that is at odds with interpretations of that statute by other divisions of the Court of Appeals. The opinion subverts the public policy of the statute, recognized by this Court, to liberally afford an opportunity for childhood victims of sexual abuse to secure redress for that abuse in Washington courts.¹

As trial practitioners who often litigate childhood sexual abuse cases, Connelly Law Offices knows that Division II's outlier interpretation of the statute will create problems for trial judges in applying RCW 4.16.340(1)(c), and will harm the interests of childhood victims of a repugnant offense, until this Court restores the proper interpretation of the statute.

Review is merited. RAP 13.4(b).

¹ Judge Cruser's persuasive dissent calls out precisely how the majority opinion contradicts precedent of this Court and Division I. That dissent correctly identifies the "logical fallacy" of the majority's statutory interpretation.

B. IDENTITY AND INTEREST OF *AMICUS CURIAE*

The identity and interest of Connelly Law Offices is set forth in detail in its motion for leave to submit this memorandum. That information is incorporated by reference.

C. STATEMENT OF THE CASE

Connelly Law Offices adopts the Statement of the Case as set forth in Division II's published opinion, op. at 2-8, as refined in the Estate's petition for review. Pet. at 2-7.

D. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

Connelly Law Offices concurs in the analysis of RCW 4.16.340(1)(c) articulated in the Timothy Jones Estate's petition for review, and will not reiterate what is set forth there. Suffice it to say that the majority opinion's statutory interpretation:

- cannot be reconciled with Washington's broad protective duty owed to dependent children like Timothy Jones, as this Court articulated in *H.B.H. v. State*, 192 Wn.2d 154, 429 P.3d 484 (2018);
- cannot be reconciled with this Court's interpretation of the statute in *C.J.C. v. Corp. of the Catholic Bishop of Yakima*, 138 Wn.2d 699, 985 P.2d 262 (1999);

- runs contrary to Court of Appeals decisions (like *K.C. and L.M. v. Johnson*, 197 Wn. App. 1083, 2017 WL 888600 (2017), and *K.C. v. State*, 10 Wn. App. 2d 1038, 2019 WL 4942457 (2019) (in which the Connelly Law Offices was counsel) that mandate that a plaintiff must connect his/her harm to the specific acts of a defendant, something Timothy Jones did not do here;
- is contrary to the express language of RCW 4.16.340(1)(c) and its legislative history, particularly the legislative intent to *broaden* remedies for childhood sexual abuse victims;
- has prompted a thorough and persuasive dissent.

In sum, all the traditional guideposts for this Court granting review to provide a definitive interpretation of an important statute that effectuates a critical public policy are present here.

From the standpoint of Connelly Law Offices, a trial firm active in child sex abuse cases, the published Division II opinion will create mischief in the handling of cases until this Court acts. The case law in Divisions I and III on RCW 4.16.340(1)(c) is contrary to Division II's opinion. *See, e.g., Kirchoff v. City of*

Kelso, 190 Wn. App. 1032, 2015 WL 5923455 (2015) highlighted by the dissent. Op. at 26-27. Because Division II's opinion is published, victims of child sex abuse will be subject to Division II's flawed interpretation of RCW 4.16.340(1)(c) unless and until this Court acts.

This is a case that cries out for this Court's definitive statutory analysis where three provisions of RAP 13.4(b)(4) are implicated. RAP 13.4(b)(1), (2), (4).

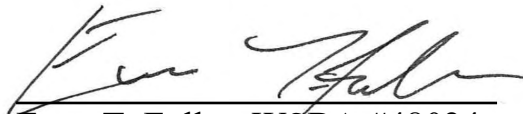
E. CONCLUSION

For the foregoing reasons, this Court should grant review. RAP 13.4(b).

This document contains 630 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 20th day of January, 2023.

Respectfully submitted,



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