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SUPREME COURT
STATE OF WASHINGTON
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NO. 84614-6

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

CONNER MICHAEL SCHIERMAN,

Appellant.

**RESPONDENT'S ANSWER TO THE AMICUS CURIAE BRIEF
FILED BY THE AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON**

DANIEL T. SATTERBERG
King County Prosecuting Attorney

DONNA L. WISE
Senior Deputy Prosecuting Attorney

ERIN H. BECKER
Special Deputy Prosecuting Attorney
Attorneys for Respondent

King County Prosecuting Attorney
W554 King County Courthouse
516 3rd Avenue
Seattle, Washington 98104
(206) 296-9650

 ORIGINAL

TABLE OF CONTENTS

	Page
A. <u>INTRODUCTION</u>	1
B. <u>ARGUMENT</u>	2
C. <u>CONCLUSION</u>	3

TABLE OF AUTHORITIES

Page

Table of Cases

Washington State:

Satomi Owners Ass'n v. Satomi, 167 Wn.2d 781,
225 P.3d 213 (2009)..... 2

State v. Gonzalez, 110 Wn.2d 738,
757 P.2d 925 (1988)..... 2

Rules and Regulations

Washington State:

RAP 10.3..... 2

A. INTRODUCTION

The American Civil Liberties Union of Washington (“ACLU”) has filed an amicus curiae brief. The ACLU argues that Schierman’s right to a public trial was violated when the trial court considered both challenges for cause and several jurors’ requests for hardship excusal during an in-chambers hearing. It further argues that his right to a public trial was violated when the parties considered jurors’ requests for hardship excusals—made prior to their appearing in court—in the jury services manager’s office.

Regarding the ACLU’s argument that the consideration of hardship requests in chambers violated Schierman’s right to a public trial, Schierman did not assign error to this procedure. The Court should not consider an issue raised for the first time in an amicus brief.

Regarding the remaining two issues raised by the ACLU—the in-chambers consideration of challenges for cause, and the parties’ consideration of hardship requests in the office of the jury services manager—the State has fully addressed these arguments in its initial briefing. However, this Court should be aware of a factual error in the amicus brief: the six challenges for cause at issue were all made by

Schierman; none were made by the State. Compare ACLU Brief at 5 with 58RP 263-70; 59RP 15-22.

B. ARGUMENT

The ACLU contends that the in-chambers consideration of several jurors' requests for excusal due to hardship violated Schierman's right to a public trial. But Schierman has not raised this claim in either an assignment of error or in argument. Brief of Appellant at 1, 25; Reply Brief at 10; see also Brief of Respondent at 51 n.24 (clarifying that Schierman did not assign error to the in-chambers consideration of hardship requests). An issue raised only by the amicus should not be considered by this Court. Satomi Owners Ass'n v. Satomi, 167 Wn.2d 781, 819, 225 P.3d 213 (2009); State v. Gonzalez, 110 Wn.2d 738, 752 n.2, 757 P.2d 925 (1988); see also RAP 10.3(g) ("The appellate court will only review a claimed error which is included in an assignment of error or clearly disclosed in the associated issue pertaining thereto.").

C. CONCLUSION

For the reasons set forth in the State's briefs, this Court should affirm Schierman's convictions and sentence.

DATED this 26th day of February, 2015.

Respectfully submitted,

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: Donna L. Wise
DONNA L. WISE, WSBA #13224
Senior Deputy Prosecuting Attorney

By: Donna L. Wise for
ERIN H. BECKER, WSBA #28289
Special Deputy Prosecuting Attorney
Attorneys for Respondent

Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to the attorneys for the appellant,

Attorney(s) for Appellant(Conner Michael Schierman) Suzanne Lee Elliott Attorney at Law Hoge Building 705 2nd Ave Ste 1300 Seattle WA 98104-1797 Email: suzanne-elliott@msn.com	Attorney(s) for Appellant(Conner Michael Schlerman) David B Zuckerman Attorney at Law 705 2nd Ave Ste 1300 Seattle WA 98104-1797 Email: David@DavidZuckermanLaw.com
Attorney(s) for Amicus Curiae(American Civil Liberties Union of Washington (ACLU)) Margaret Ji Yong Pak Enslow Martin PLLC 701 5th Ave Ste 4200 Seattle WA 98104-7047 Email: margaret@enslowmartin.com	Attorney(s) for Amicus Curiae(American Civil Liberties Union of Washington (ACLU)) Sarah A Dunne ACLU of Washington Foundation 901 5th Ave Ste 630 Seattle WA 98164-2008 Email: dunne@aclu-wa.org
Attorney(s) for Amicus Curiae(American Civil Liberties Union of Washington (ACLU)) Nancy Lynn Talner Attorney at Law 901 5th Ave Ste 630 Seattle WA 98164-2008 Email: talner@aclu-wa.org	

containing a copy of the Respondent's Answer to the Amicus Curiae Brief Filed by the American Civil Liberties Union of Washington, in STATE V. CONNER MICHAEL SCHIERMAN, Cause No. 84614-6, in the Supreme Court, for the State of Washington.

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

U Brame
Name
Done in Seattle, Washington

2/26/15
Date 2/26/15

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To: Brame, Wynne
Cc: Wise, Donna; erin.becker@usdoj.gov; suzanne-elliott@msn.com; David@DavidZuckermanLaw.com; margaret@enslowmartin.com; dunne@aclu-wa.org; talner@aclu-wa.org
Subject: RE: State v. Conner Schierman, No. 84614-6

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Cc: Wise, Donna; erin.becker@usdoj.gov; suzanne-elliott@msn.com; David@DavidZuckermanLaw.com; margaret@enslowmartin.com; dunne@aclu-wa.org; talner@aclu-wa.org
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Please accept for filing the attached documents (Respondent's Answer to the Amicus Curiae Brief filed by the American Civil Liberties Union of Washington) in State of Washington v. Conner Schierman, No. 84614-6.

Thank you.

Donna Wise
Senior Deputy Prosecuting Attorney
WSBA #13224

Erin H. Becker
U. S. Attorney's Office
WSBA #28289

King County Prosecutor's Office
W554 King County Courthouse
Seattle, WA 98104
206-477-9497 – please note, new phone number
E-mail: Donna.Wise@kingcounty.gov
E-mail: erin.becker@usdoj.gov
E-mail: PAOAppellateUnitMail@kingcounty.gov
WSBA #91002

This e-mail has been sent by Wynne Brame, paralegal (phone: 206-477-9497), at the direction of Donna Wise and Erin Becker.

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