

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN re the Personal Restraint of,)
)
)
)
RONALD HALL.)
)
)
_____)

NO. 75800-0

MOTION TO ADOPT
ARGUMENT OF AMICUS CURIAE

RECEIVED
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OF WASHINGTON
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I. IDENTITY OF MOVING PARTY

Petitioner Ronald Hall requests the relief stated in Part II.

II. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 1.2 (c) and RAP 10.1(g), and in the interests of justice, appellant requests that this Court allow him to adopt the arguments based on Const. art. 1, section 16 and State v. Levy, 156 Wn.2d 709, 132 P.3d 1076 (2006), contained in the brief of amicus curiae, the Washington Association of Criminal Defense Lawyers (WACDL).

III. FACTS RELEVANT TO MOTION AND GROUNDS FOR RELIEF

Mr. Hall has filed a supplemental brief on the issue of whether, in light of Washington v. Recuenco, 548 U.S. ____, 126 S. Ct. 478, 163 L. Ed. 2d 362 (2006), the error in failing to submit the aggravating factors used to his exceptional sentence to a jury to be determined beyond a reasonable doubt can be harmless error.

Amicus curiae, WACDL, have been permitted to file a brief on the issue, but raising an argument not made by Mr. Hall in his Supplemental brief.

Respondent State of Washington has filed a response to the amicus brief.

RAP 1.2(a) provides that the “rules will be liberally interpreted to promote justice and facilitate the decisions of cases on the merits.”

RAP 1.2 (c) provides that:

The appellate court may waive or alter the provisions of any of these rules in order to serve the ends of justice

RAP 10.1(g) provides:

In cases consolidated for the purpose of review and in a case with more than one party to a side, a party may . . . file a separate brief and adopt by reference any part of the brief of another.

Thus, the Rules of Appellate Procedure authorizes interpretations and procedures which serve the ends of justice, and contemplate a party adopting an argument from the brief of another party joined for appeal. Although WACDL is not a party, it has established an interest in the proceedings and its arguments have been determined to be relevant to the decision before this Court.

The issue of the impact of the decision of the United States Supreme Court in Washington v. Recuenco on exceptional sentencing in Washington is an issue with implications far beyond Mr. Hall’s case. It would be expeditious and consistent with the role of this Court in providing guidance to all lower courts on issues of importance to permit Mr. Hall to adopt the arguments of amicus curiae. The arguments of amicus curiae are constitutional and should be considered in deciding the merits of Mr. Hall’s case.

Therefore, Mr. Hall should be permitted to adopt this argument.

IV. CONCLUSION

Appellant respectfully requests that this Court grant the motion.

DATED this 7th day of March, 2007,

Respectfully submitted,



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CERTIFICATE OF SERVICE

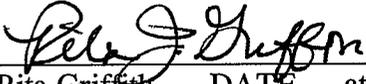
I certify that on the 7th day of March, 2007, I caused a true and correct copy of the Petitioner's Motion to Adopt the Argument of Amicus Curiae to be served on the following via prepaid first class mail: or e-mail.

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