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SUPREME COURT
STATE OF WASHINGTON
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91642-0

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SUPREME COURT OF THE STATE OF WASHINGTON

CORTNEY L. BLOMSTROM,
BROOKE M. BUTTON,
CHRISTOPHER V. COOPER,

Petitioners,

v.

HONORABLE GREGORY TRIPP
IN HIS OFFICIAL CAPACITY AS SPOKANE COUNTY
DISTRICT COURT JUDGE, AND THE SPOKANE COUNTY
DISTRICT COURT,

Respondents.

REPLY BRIEF TO MOTION FOR DISCRETIONARY REVIEW

Appeal from the Spokane County Superior Court

Karen S. Lindholdt, WSBA #24103
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Attorney for Petitioners

 ORIGINAL

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TABLE OF AUTHORITIES

Washington Cases

City of Seattle v. Holifield, 170 Wn.2d 230, 240 P.3d 1162 (2010)...1
Glass v. Stahl Specialty Co., 97 Wn.2d 880, 652 P.2d 948 (1982)...2
Hartley v. State, 103 Wn.2d 768, 773, 698 P.2d 77 (1985).....2
State v. Rose, 146 Wn. App. 439, 457, 191 P.2d 3d 83 (2008).....2

Statutes

RCW 10.21.055..... 1, 2, 3

I. Introduction.

In its Response Brief, the State again argues that Petitioners have other remedies available to them. The State also argues that Petitioners haven't raised issues of broad import which require prompt and ultimate determination from this Court. The State is simply wrong. Indeed, one would be hard-pressed to find an issue of greater state-wide application. RCW 10.21.055 requires courts to impose on all individuals charged with an alcohol related offense, who have a prior alcohol related offense, either pre-trial testing (sobriety monitoring), or an ignition interlock device, or both. RCW 10.21.055 (1).

City of Seattle v. Holifield, 170 Wn.2d 230, 240 P.3d 1162 (2010), supports Petitioners assertions that this case is appropriate for a writ of review. Although the Respondents are correct that two of the three Petitioners are no longer subjected to the pre-trial conditions, the fact remains that the imposition of these pre-trial testing requirements are routinely imposed by Courts of Limited Jurisdiction throughout the State of Washington by virtue of RCW 10.21.055.

Although these legal issues were raised before the Spokane County Superior Court pursuant to a writ of review, the Superior Court erroneously dismissed the Writ and held that Petitioners were limited to the remedy of a RALJ appeal.

There is ample precedent for this Court accepting discretionary review on cases that have issues of broad public importance. *See Hartley v. State*, 103 Wn.2d 768, 773, 698 P.2d 77 (1985) and *Glass v. Stahl Specialty Co.*, 97 Wn.2d 880, 652 P.2d 948 (1982). In *Hartley v. State*, this Court held that discretionary review is appropriate when there is a need for interpreting a new statute with wide implications. *Hartley v. State*, 103 Wn.2d at 773. *See also Glass v. Stahl Specialty Co.*, 97 Wn.2d 880, 652 P.2d 948 (1982)(Court considered on discretionary review a case alleging violations of recently enacted tort and products liability reform laws).

The present case involves the imposition of pre-trial testing imposed pursuant to RCW 10.21.055, and contrary to the *State v. Rose*, 146 Wn. App. 439, 457, 191 P.2d 3d 83 (2008) decision. In *State v. Rose*, the Washington State Court of Appeals, Div. II, reversed the lower court's imposition of pre-trial testing requirements, and issued an order remanding the case and order that the conditions be removed. In reaching its decision, the court concluded that the State had not met the testing requirements resulted in a warrantless search, and that the State had not demonstrated an exception by which it could legally conduct the search. Moreover, the State failed to show that the defendant was unlikely to appear in Court, or was a danger to the community. *Id.* at 457.

II. Conclusion.

Petitioners request that this Court accept Discretionary Review and issue Orders (1) reinstating the Writ that was wrongfully dismissed, and (2) issue a declaratory statement to the trial court with instructions that the imposition of the testing conditions imposed pursuant to RCW 10.21.055 results in unreasonable warrantless searches.

Dated: October 23, 2015.

A handwritten signature in black ink that reads "Karen Lindholdt". The signature is written in a cursive style with a horizontal line underneath the name.

Karen S. Lindholdt, WSBA #24103

CERTIFICATE OF SERVICE

I, Karen S. Lindholdt, certify under penalty of perjury under the laws of the State of Washington that on October 23, 2015, I emailed a copy of the foregoing Reply Brief to Brian O'Brien of the Spokane County Prosecuting Attorney's Office.

DATED this 23rd day of October, 2015.


Karen Lindholdt
Karen S. Lindholdt

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Cc: O'Brien, Brian <BOBRIEN@spokanecounty.org>
Subject: 91642-0, Petitioners' Reply Brief on Motion for Discretionary Review

Attached for filing, please find Petitioners' Reply Brief.

Thank you for your attention to this matter.

Best,

Karen