

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY SUSAN L. CARLSON
CLERK

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

STATE OF WASHINGTON,
Plaintiff/Petitioner
v.
DREEWES, JENNIFER CATHRYN,
Defendant/Respondent

No. 95551-4

RESPONSE TO MOTION
TO SEAL LIMITED
PORTIONS OF ANSWER TO
AMICI BRIEFING

I. **IDENTITY OF RESPONDING PARTY**

The State of Washington asks for the relief designated in Part II.

II. **STATEMENT OF RELIEF SOUGHT**

The State asks the court deny the motion to seal limited portions of the respondent's answer to amici briefing.

III. **FACTS RELEVANT TO MOTION**

The respondent appealed her convictions for second degree assault and first degree robbery. In addition to arguments related to her conviction on those counts, she argued that should not be assessed the costs of appeal if her convictions were affirmed. Brief of Respondent at 35-36. In response the State pointed out that testimony at trial indicated that she did have assets from which she could contribute to those costs. The State also referred to information contained in documents filed in the respondent's dissolution action, and also designated those documents in support of its argument that

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the respondent could contribute to the cost of appeal. Brief of Respondent at 22-24. Without court authorization the respondent then filed her reply brief, sealing the portion of the brief that replied to the State's cost bill argument. The respondent made several unsuccessful motions to seal that portion of her brief. While the State's brief remained unsealed, and the supplemental clerk's papers from the respondent's dissolution file were struck, the portion of the respondent's reply brief remained unsealed until a short time ago when this Court published an unsealed version of the reply brief on its website. See Commissioner's ruling dated March 13, 2017 and October 4, 2017, COA no. 74055-5-I, Supreme Court letter dated August 1, 2018.

The respondent's motion for discretionary review of the decision of the Court of Appeals denying her motion to seal portions of the State's response brief and her reply brief was granted by this Court. The State filed supplemental briefing, arguing in part that the respondent had not satisfied the requirements of Seattle Times v. Ishikawa, 97 Wn.2d 30, 640 P.2d 616 (1982) and GR 15 were not met. The State did not repeat the information cited in its original response brief in the Court of Appeals.

Amici Allied Daily Newspapers of Washington and Washington Coalition for Open Government filed a brief also arguing against sealing the portions of the response and reply briefs. Amici did not include any of the respondent's financial information in its brief. In response to Amici the respondent includes reference to her and her former husband's assets and liabilities. She asks the Court to seal three lines on page 15 and two lines on page 16 of her answer to Brief of Amici Curiae should this Court overturn the decision of the Court of Appeals and seal limited portions of the State's response brief and the Respondent's reply brief.

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IV. GROUND FOR RELIEF AND ARGUMENT

To justify sealing a proponent must first make some showing of the need for sealing. Where the need for sealing is to further some interest other than the right to a fair trial the proponent must demonstrate a serious and imminent threat to some other important interest. Ishikawa, 97 Wn.2d at 37. Speculation about a potential threat to some interest is not sufficient to satisfy that requirement. Hundtofte v. Encarnacion, 181 Wn.2d 1, 10, 330 P.3d 168 (2014).

The respondent seeks an order sealing the last three lines of page 15 and lines 3 and 4 of page of her answer to amici brief. She relies on the same basis to seal that portion of her answer as she relied on to justify sealing portions of the State's response brief and portions of her reply brief, i.e. that it recites personal financial information. She further claims that the State misrepresented her financial information in its response brief, and that misrepresentation justifies sealing.

The specific lines that respondent seeks to seal in her answer to amici brief do not reveal any personal financial information. The lines on page 15 she seeks to seal simply repeat arguments the State made in its response brief. Only the mention of a debt comes close to financial information. Lines 3 and 4 on page 16 of her answer contain only argument. While she does mention some other debt on lines 11 and 12 of page 16, she did not ask the court to seal those lines. Lines 11 and 12 on page 16 are similarly only financial information in the most general sense. The respondent's financial security may be an important interest. However general references to debts owed, and arguments about why those references should be sealed provides no threat, imminent or otherwise, to the respondent's financial security.

In addition, while neither the State nor Amici included either general or specific information about the respondent's finances in its briefing, the respondent chose to do so. She fails to explain why it was necessary to include that information in her briefing. By including that information in her answer, the respondent chose to make the arguments and related information

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public. The choice represents her decision that making the points she wanted to make outweighed any concern she had for keeping that information private.

As Amici has pointed out, the information the respondent seeks to seal has been in open court records for more than one year now. The respondent has not identified how that information has threatened her financial security. At best she speculates that those references will threaten her security. Since speculation is insufficient to justify sealing, sealing any portions of the briefing including the respondent's answer to amici is not justified.

CONCLUSION

The motion to seal portions of the answer to amicus curiae briefing should be denied.

Respectfully submitted this September 5, 2018

MARK K. ROE

Snohomish County Prosecutor



KATHLEEN WEBBER, WSBA #: 16040
Attorney for Respondent

Sent via email
On this day I mailed a properly stamped envelope addressed to the attorney for the defendant that contained a copy of this document.
I certify under penalty of perjury under the laws of the State of Washington that this is true.
Signed at the Snohomish County Prosecutor's Office
this 5th day of August 2018



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SNOHOMISH COUNTY PROSECUTOR'S OFFICE

September 05, 2018 - 10:13 AM

Transmittal Information

Filed with Court: Supreme Court
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Appellate Court Case Title: State of Washington v. Jennifer Cathryn Dreewes
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Comments:

State's Response to Motion to Seal Limited Portions of Answer to Amici Briefing

Sender Name: Diane Kremenich - Email: diane.kremenich@co.snohomish.wa.us

Filing on Behalf of: Mary Kathleen Webber - Email: kwebber@co.snohomish.wa.us (Alternate Email: diane.kremenich@snoco.org)

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