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COURT OF APPEALS  
DIVISION II  
STATE OF WASHINGTON  
SPokane

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89913-4

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, RESPONDENT

v.

DANIEL L. BROWN, APPELLANT

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APPEAL FROM THE SUPERIOR COURT

OF SPOKANE COUNTY

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ANSWER TO AMICUS CURIAE BRIEF

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 ORIGINAL

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## I. ARGUMENT

The Amicus Curiae brief ignores some of the facts in this case and in so doing, turns this case into something it is not. The defense was invited to listen to the 911 recording, bring a tape recorder and record the audio and the defense could certainly take notes while listening to the 911 recording. This was not enough for the defense.

This case is *not* as the defense portrays. The defendant was given complete access to the 911 recording. What this case is truly about is the defense's demand that he be provided a copy of the recording without cost. By way of analogy, the defendant is standing on his own foot and then complaining that he cannot walk.

The Amicus Curiae brief postures that the State is requiring the defendant to pay money for the 911 copy. The State is requiring nothing. It is the defendant who is requiring the copy of the 911 recording. The defendant had ample opportunity to obtain the information on the 911 recording. Being given access to the 911 recording for listening, note taking or recording on the defendant's own recorder was not satisfactory to the defendant. It was the defendant's choice to seek a direct copy of the

911 recording. The State merely provides the service (copying the 911 recording) that the defendant is requesting. The defendant is the party requesting the copy. It would hardly be equitable for the State to pay for a copy solely for the convenience of the defendant.

The Amicus brief claims that this Court was incorrect when it decided *State v. Boyd*, 160 Wn.2d 424, 158 P.3d 54 (2007). The defense contends that the decision in *Boyd, Id.* violates Article I, § 22 of the Washington State Constitution insofar as it allows for defendants to be charged for reasonable costs of copying. The defense maintains that all this Court needs to do to harmonize the alleged conflict with Article I, § 22 to make defendants liable for payment only after a conviction. Among other problems such a rule would create would be that no private attorney or public defender could seek any funds from the defendant prior to his conviction. Thus, all pretrial and trial work would be conducted *pro bono*. If the defendant was acquitted, the workings of the procedures pushed by the Amicus brief might end up denying defense attorneys any compensation at all.

II. CONCLUSION

The Amicus Curiae brief does not present any reasonable arguments for this Court to take review of this case and review should be denied.

Dated this 24<sup>th</sup> day of April, 2014.

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, )  
 )  
 Respondent, ) NO. 89913-4  
 v. )  
 ) CERTIFICATE OF MAILING  
 DANIEL L. BROWN, )  
 )  
 Appellant, )

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I certify under penalty of perjury under the laws of the State of Washington, that on April 24, 2014, I mailed a copy of the Answer to Amicus Curiae Brief in this matter, addressed to:

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Attached is the State's Answer to Amicus Curiae Brief.

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