

**SUPERIOR COURT OF THE STATE OF WASHINGTON
SNOHOMISH COUNTY**

In re:

MOANA TEINEALETALAFATAI
OMELI (a/k/a Quincy Tyree Childress),

Petitioner.

Superior Court Case No. 21-2-02667-31

District Court Case No. N 21-39

AMICUS CURIAE BRIEF OF THE
ATTORNEY GENERAL OF THE
STATE OF WASHINGTON

I. INTRODUCTION

For transgender and gender-expansive Washingtonians, changing their legal name to match their gender identity and chosen name is a matter of safety, self-determination, and dignity. While a legal name change is important to all who seek one, it is especially important to transgender people who are at a disproportionate risk of violence—in particular, transgender women of color like Petitioner Omeli—when they use a form of identification that does not match their gender presentation. Because transgender individuals generally experience more economic challenges than the overall population, they are likely to have a greater need to avail themselves of the court fee waiver process provided in General Rule (GR) 34. As such, the proper interpretation of GR 34 is a critical access to justice issue. The Attorney General of the State of Washington respectfully submits this amicus curiae brief to ensure that the Court understands the impact that a narrow interpretation of GR 34 will have on the safety and well-being of

1 indigent transgender Washingtonians who require a complete waiver of all fees to be able to
2 legally change their name.

3 **II. IDENTITY OF AMICUS CURIAE**

4 The Attorney General is the legal adviser to the State of Washington. RCW 43.10.030.
5 The Attorney General's constitutional and statutory powers include the submission of amicus
6 curiae briefs on matters that affect the public interest. *See Young Ams. for Freedom v. Gorton*,
7 91 Wn.2d 204, 212, 588 P.2d 195 (1978); *see also City of Seattle v. McKenna*, 172 Wn.2d 551,
8 562, 259 P.3d 1087 (2011) (Attorney General's "general powers and duties" include
9 "discretionary authority to act in any court, state or federal, trial or appellate, on a matter of
10 public concern") (internal quotation marks omitted).

11 **III. THE ATTORNEY GENERAL'S INTEREST IN THIS MATTER**

12 This case presents issues of significant public interest: the public's right to equal access
13 to justice; and the health, safety, and well-being of transgender and gender-expansive residents
14 of Washington State. A legal name change is undoubtedly important to everyone who avails
15 themselves of the process. But it is especially important to transgender and gender-expansive
16 Washingtonians, who most often are seeking to conform their legal name to their gender identity
17 and chosen name. Not having identification that accurately reflects a chosen name is frequently
18 dangerous for those individuals, and is linked to depressive symptoms. As such, the Attorney
19 General has an interest in ensuring rules like GR 34, which is meant to eliminate financial
20 barriers to court services, are interpreted and applied in a manner that ensures the public's broad
21 access to the legal name change process. That interest is present in this case, where Petitioner
22 Omeli, a transgender woman of color, was denied a waiver of a \$103.50 fee to record her legal
23 name change, even though the District Court found Ms. Omeli is indigent. *See Pet.'s Op. Br.*;
24 RCW 4.24.130(4); 36.18.010.

1 **IV. SPECIFIC ISSUE ADDRESSED BY AMICUS**

2 The impact of the failure to waive a County Auditor’s fee to record a legal name change
3 under GR 34 on access to justice and the safety and well-being of transgender and
4 gender-expansive Washingtonians.

5 **V. STATEMENT OF THE CASE**

6 The Attorney General adopts Petitioner’s Statement of the Case.

7 **VI. ARGUMENT**

8 In general, the Attorney General’s Office agrees with and supports the arguments made
9 in Petitioner’s Opening Brief. The Attorney General submits this Amicus Curiae Brief to
10 highlight the unique and substantial impacts that a narrow interpretation of GR 34’s fee waiver
11 would have on transgender and gender-expansive Washingtonians seeking a legal name change,
12 and the importance of access to justice in this context.

13 First, as observed by the Washington Supreme Court Gender & Justice Commission,
14 legal name change recording fees “may have a disparate impact on indigent transgender and
15 non-binary individuals.” Wash. State Supreme Court Gender & Justice Comm’n, *2021 Gender*
16 *Justice Study*, at 14 (2021), [https://www.courts.wa.gov/subsite/gjc/documents/](https://www.courts.wa.gov/subsite/gjc/documents/2021_Gender_Justice_Study_Report.pdf)
17 [2021_Gender_Justice_Study_Report.pdf](https://www.courts.wa.gov/subsite/gjc/documents/2021_Gender_Justice_Study_Report.pdf). Transgender people are statistically more likely to
18 need a GR 34 fee waiver in order to access the legal name change process in district court because
19 they have higher rates of unemployment, underemployment, and poverty than the general
20 U.S. population, and are more likely to receive a means-tested benefit, such as SNAP or WIC.
21 Sandy E. James, et al., Nat’l Ctr. For Transgender Equality, *The Report of the 2015 U.S.*
22 *Transgender Survey*, at 140-45 (2016), [https://transequality.org/sites/default/files/docs/](https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf)
23 [usts/USTS-Full-Report-Dec17.pdf](https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf). The unemployment rate amongst respondents to the 2015
24 U.S. Transgender Survey—the most recent version of the large, in-depth, national survey—was
25 15%, which is three times the overall U.S. unemployment rate at the time of the survey.
26 *Id.* at 140-41. These rates are even higher for transgender people of color. *Id.* at 140-45. The

1 economic challenges that transgender people face have been attributed to the rampant
2 discrimination and harassment directed towards them in nearly every area of society, but most
3 notably in the employment context. Jaime M. Grant et al., Nat'l Ctr. For Transgender Equality,
4 *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, at 66-67
5 (2011), https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf.

6 Indeed, studies show that many transgender people are deterred from seeking a legal
7 name change by the costs associated with the process. Of the 64% of respondents to the 2015
8 U.S. Transgender Survey who did not seek a legal name change, 35% said it was because they
9 could not afford it. James et al., *2015 U.S. Transgender Survey*, at 83-84. Of the 30% of
10 respondents who did attempt to change their legal name, 2% did not complete the process
11 because they ran out of money. *Id.* Cost barriers only exacerbate the difficulties transgender
12 people already face in seeking a legal name change. According to the 2015 survey, 49% of
13 respondents did not have an ID or record with the name they preferred. James et al., *2015 U.S.*
14 *Transgender Survey*, at 85. Transgender noncitizens are even less likely to have an ID or record
15 with their preferred name. *Id.*

16 A narrow interpretation of GR 34 therefore is more likely to impede the ability of
17 transgender people to access our courts, especially those whom, like Petitioner Omeli, have zero
18 income, zero assets, and zero ability to pay anything to access the name change process. In this
19 situation, denying the application of a GR 34 fee waiver as to even one fee amounts to a total
20 denial of access to our state court system, which is inconsistent with the plain language of GR 34
21 and case law. *See* GR 34 & comment (allowing waiver of any fee “which is a condition precedent
22 to a litigant’s ability to secure access to judicial relief” including “legislatively established” fees);
23 *Jafar v. Webb*, 177 Wn.2d 520, 529, 303 P.3d 1042 (2013) (“Consistent with our analysis of
24 GR 34, principles of due process or equal protection require that litigants have access to the
25 courts and require a complete waiver of fees.”); *accord* Wash. State Supreme Court Gender
26 & Justice Comm’n, *2021 Gender Justice Study*, at 23 (observing that “[s]ince the recording is a

1 requirement of the name change petition process, it appears it should be waived under *Jafar* and
2 GR 34”).

3 Second, reliable access to the vital gender affirming service of a legal name change is
4 critical to ensuring the safety and well-being of transgender Washingtonians. Unfortunately, hate
5 crimes and incidents of violence against transgender people have increased substantially in the
6 last five years. Reported violent deaths of transgender people are increasing, with 2021 on pace
7 to be the deadliest year yet. Movement Advancement Project, *Policy Spotlight: Hate Crime*
8 *Laws*, at 4-6 (July 2021), <https://www.lgbtmap.org/file/2021-report-hate-crime-laws.pdf>; *see*
9 *also* Anagha Srikanth, *Almost twice as many transgender Americans have been killed as this*
10 *time last year*, The Hill (Apr. 13, 2021), [https://thehill.com/changing-america/respect](https://thehill.com/changing-america/respect/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed)
11 [/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed](https://thehill.com/changing-america/respect/equality/548027-almost-twice-as-many-transgender-americans-have-been-killed). Transgender
12 people are over four times more likely to experience violent crimes compared to cisgender
13 people, and twice as likely to experience property crime. *Policy Spotlight*, at 6.

14 For transgender and nonbinary people, not having an identification that accurately
15 reflects a chosen name exacerbates the risks they already face because of their gender identity.
16 As a result of showing an identification with a name or gender that did not match their chosen
17 name or gender presentation, respondents to the 2015 U.S. Transgender Survey reported being
18 verbally harassed, denied services or benefits, asked to leave a location or establishment, and
19 assaulted or attacked. James et al., *2015 U.S. Transgender Survey*, at 90. People of color and
20 residents who are undocumented were even more likely to report being assaulted or attacked for
21 using incongruous IDs. *Id.* at 90. As such, denying transgender Washingtonians the ability to
22 petition for a legal name change because of the inability to pay a recording fee can have serious
23 impacts on the personal safety and security of some of Washington’s most vulnerable residents.

24 Finally, removing barriers to the legal name change process, rather than constructing
25 them, has positive impacts on the mental health of transgender and gender-expansive individuals.
26 Studies show that using a chosen name is linked to reduced depressive symptoms in transgender

1 people. See Stephen T. Russell, et al., *Chosen Name Use Is Linked to Reduced Depressive*
2 *Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*,
3 63 J. of Adolescent Health 503, 505 (Oct. 2018); see also Jody Herman, et al., Williams Inst.,
4 *Suicide Risk and Prevention for Transgender People: Summary of Research Findings*,
5 (Sept. 2021), [https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-](https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-summary/)
6 [summary/](https://williamsinstitute.law.ucla.edu/publications/trans-suicide-risk-prevent-summary/). And ensuring that a legal name change is accessible to all Washingtonians, regardless
7 of the ability to pay, is consistent with Washington’s statutory obligation to provide government
8 services to all residents without discriminatory impact based on sex, gender identity, or gender
9 expression. RCW 49.60.030(1), .040(27); accord Transgender Law Center, *Black Trans Women*
10 *and Black Trans Femmes: Leading and Living Fiercely*, [https://transgenderlawcenter.org/black-](https://transgenderlawcenter.org/black-trans-women-black-trans-femmes-leading-living-fiercely)
11 [trans-women-black-trans-femmes-leading-living-fiercely](https://transgenderlawcenter.org/black-trans-women-black-trans-femmes-leading-living-fiercely) (last accessed: Nov. 22, 2021) (urging
12 gender identities be honored and protected in public and private spaces).

13 VII. CONCLUSION

14 The Attorney General respectfully requests that the Court construe GR 34 in a manner
15 that ensures all Washingtonians, and in this case, transgender and gender-expansive individuals,
16 have access to the legal name change process, regardless of ability to pay.

17
18 DATED this 23rd day of November 2021.

19 Respectfully submitted,

20 ROBERT W. FERGUSON
21 Attorney General of Washington

22 

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1 **CERTIFICATE OF SERVICE**

2 I certify that I caused a copy of this document to be served on all parties or their counsel of
3 record as follows:

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

17 DATED this 23rd day of November, 2021 at Seattle, Washington.

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