From: OFFICE RECEPTIONIST, CLERK
To: Tracy, Mary
Subject: FW: Proposed changes to CrR 3.4 & CrRLJ 3.4
Date: Tuesday, March 31, 2020 4:15:05 PM

From: Colin McMahon [mailto:cmcmahon@snocopda.org]
Sent: Tuesday, March 31, 2020 4:13 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed changes to CrR 3.4 & CrRLJ 3.4

Good afternoon:

I am writing to express my support for the changes to CrR 3.4 and CrRLJ 3.4 regarding non-essential presence of defendants, as proposed by Magda Baker and the Washington Defender Association. Through the life of a criminal case a significant number of hearings may be scheduled and held, nearly all of which currently require the defendant to be present.

For misdemeanor matters, these can include numerous pretrial/trial readiness hearings which, in Snohomish County District Courts and municipal courts, routinely take hours to get all the way through. Requiring the defendant to be present at each of these hearings means that person must take time off work – in many instances resulting in the defendant weighing the risks of missing court against the risks of missing work, losing their employment, or at the very least that day's wages, and being unable to support themselves or their family members. So often, these hearings amount to nothing more than the entry of a trial continuance that could easily be entered without the defendant's presence after their attorney has discussed the matter with them. Additionally, these long calendars take up the time of the court, the deputy prosecuting attorneys, and private and public defense attorneys that could be better spent progressing matters along.

In felony matters the inefficiency of requiring presence at multiple pretrial omnibus or status hearings is even worse. Just as with misdemeanor pretrial hearings, the defendant's presence at these pretrial hearings in superior court carries the burdens for defendants of missing work, procuring child care, and dealing with transportation issues. At these hearings, the defendant's presence is often nothing more than a brief appearance on the record, simply to say the person appeared, while nothing substantive occurs. This is especially frustrating in matters where the parties are working toward a diversion of some type or competency proceedings where multiple status hearings are scheduled and, if the defendant fails to appear just for the parties to indicate no progress has been made and set another status hearing, a warrant will often issue for that person. The issuance of the warrant then derails the diversion efforts and parties are forced to begin the process over – unless of course the defendant is held in custody and is then coerced into just entering a plea with a credit for time served sentence range.

Requiring the defendant's presence at multiple pretrial hearings is inefficient and unnecessary. The requirement that a defendant must sign a waiver of presence beforehand will alleviate any concerns regarding knowledge of time for trial implications and serve the exact same purpose as would the

defendant's physical presence. The proposed amendment to these rules would also serve to reduce the population of individuals incarcerated while awaiting trial, through a reduction of issued bench warrants, a problem that disproportionately affects low income and minority members of our community.

Thank you for your time and consideration.

Colin J. McMahon|Attorney
Snohomish County Public Defender Association
2722 Colby Avenue, Suite 200
Everett, WA 98201
cmcmahon@snocopda.org
425-339-6300 x252