Heather Carroll
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The Honorable Charles Johnson, Chair
Supreme Court Rules Committee
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929
VIA EMAIL: supreme@courts.wa.gov

September 30, 2020

Re: Suggested Changes to Superior Court Criminal Rule 3.4 and Criminal Rule for Courts of Limited Jurisdiction 3.4

Dear Justice Johnson:

I write in support of changes the Washington Defender Association has proposed to CrR 3.4 and CrRLJ 3.4. I work as an assistant federal public defender in the Western District of Washington. Prior to my current position, I was the Public Defense Coordinator for Clark County Washington and, before that, an indigent defense contract attorney in Clark County and a public defender at the Snohomish County Public Defender Association. I write this comment in my personal capacity.

My experiences have shown me that a court system can function efficiently without requiring the accused to attend multiple pretrial hearings. People accused of crimes in federal court attend far fewer hearings than do people accused of crimes in Washington Courts. This seems to be due to differences in both rules and customs between the two court systems. Similar to the proposed versions of CrR 3.4 and CrRLJ 3.4, Federal Rule 43 mandates the accused appear at limited court hearings: the initial appearance, the initial arraignment, any plea hearing, every stage of trial, and sentencing. People accused of federal misdemeanors may appear through counsel at all stages of their cases if the court approves. No defendant is required to attend conferences or hearings on legal questions.

There are also simply far fewer hearings in federal court. For example, if I seek to continue a trial date in federal court, I file a motion and speedy trial waiver electronically. If the court grants the motion, it notifies the parties via email, and we use email arrange for a new trial date. In contrast, in state court my clients had to attend pretrial hearings to "sign for" the new date in order for me to reschedule their trial dates.

The dichotomy between state and federal courts may in part reflect the differences in caseload, staffing, and funding between the federal system and the state system – effectively using multiple, unnecessary appearances by the accused to take the place of effective communication with the accused. However, Washington Courts should not place the onus of compensating for deficiencies in the state court system on accused people. I am hopeful this amended court rule will start to change the normal operating practice in state court and eliminate multiple, needless, and disruptive court appearances for those navigating the court system in Washington.

Sincerely,

Heather Carroll

Heather Carroll

From:	OFFICE RECEPTIONIST, CLERK
To:	Linford, Tera
Cc:	Tracy, Mary
Subject:	FW: comment on proposed rule CrR 3.4/CrRLJ 3.4
Date:	Wednesday, September 30, 2020 1:52:54 PM
Attachments:	Heather Carroll 3.4 comment.pdf

From: Heather Carroll [mailto:Heather_Carroll@fd.org]
Sent: Wednesday, September 30, 2020 1:50 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: comment on proposed rule CrR 3.4/CrRLJ 3.4

Attached, please find my comment on proposed rule change CrR 3.4/CrRLJ 3.4

Thanks,
Heather Carroll

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