Faulk, Camilla

From: John Gregory [jgregory@snocopda.org]
Sent: Friday, January 29, 2010 4:43 PM
To: Faulk, Camilla
Subject: Comment - CrRLJ 3.2

Hello – Thank you for the opportunity to comment on the Washington Supreme Court's proposal to revise CrRLJ 3.2. I strongly feel that eliminating bail forfeitures (BF) as a dispute resolution device is a mistake. I can not stress that enough. Even though I have only been a public defender for about three years, I have seen many examples of cases satisfactorily resolved – for all parties – due to the BF option. I understand the concerns you have about BF's. However, I hope to address most of them.

(1) **The legislature provided no definition for BF.** Fine, then the legislature can define it. Any defense attorney has explained what a BF means hundreds, if not thousands of times, so a understandable definition shouldn't be problematic. Is it a conviction? Clearly the answer is no. However, as with many 'definitions' in law, there are exceptions. These exceptions are defined in your cover sheet and are understood by all defense attorneys. And these exceptions are easily explainable to defendants as well.
(2) **The AOC computer system changes BF to a G if $ not paid.** In Snohomish County the defendant must pay the BF amount at the time the prosecutor allows the defendant to forfeit bail. This practice eliminates your stated problem entirely. If the defendant can't pay the BF amount at court, then they shouldn't have that option.
(3) **The legislature has not delegated authority to enact BF's in different amounts.** In practice, this is not a problem at all. It seems the bail forfeit amounts – where defined – have been thought about and are usually perfectly acceptable to most criminal defendants. Rarely have I had a case where the BF amount required presented an insurmountable problem. If they are, another resolution is usually easily found.
(4) **Convictions without finding of guilt, colloquy, etc.** This concern would be taken care of if my suggestion in number 2 were followed.

Overall, the problems stated do not outweigh the tremendous benefit – and flexibility – the BF option provides all the participants in the dispute resolution process. Often times in practice, with more serious charges than a DWLS-3 or a fishing violation, a prosecutor will offer a BF where there are serious problems in their case. In those situations the prosecutor would rather close the case, in a satisfactory manner (and with money going to the courts), than to either go to trial or dismiss the case. Conversely, for a defendant, the BF option allows a defendant to resolve a case without a risk of a conviction (except where defined), and to bring closure to a stressful time.

Thank you very much for your time. I'm not sure that any prosecutors commented on the proposal to eliminate BF as a dispute resolution device. If they did, I am confident they were strongly against any action to eliminate the BF.

Thanks for your time.

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