



April 28, 2016

Chief Justice Barbara Madsen
Supreme Court of Washington
Temple of Justice PO Box 40929
Olympia, WA 98504-0929

MEMBERS

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STAFF

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THE ALLIANCE
for Equal Justice
SUPPORTER

Re: Proposed Amendment to CrRLJ 3.2

Dear Chief Justice Madsen and Esteemed Justices of the Court,

The ATJ Board supports the comments by the Washington State Bar Association Council on Public Defense regarding the proposed amendment to CrRLJ 3.2. The proposed amendment will reduce the options available to low income defendants to remain out of jail during the prosecution of a criminal matter. The ATJ Board supports maintaining all of the available options for seeking release from jail that are consistent with the purpose of bail. The cash appearance bond is an important option for low income individual and must be maintained.

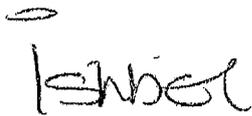
The rule change that has eliminated the option of providing a cash appearance bond to be submitted directly with the court in an amount not to exceed 10% of the bond value without use of a commercial surety has taken away one important and fair way for low income people to seek release. As you probably know, the appearance bond can work to the benefit of the working poor in the following manner. The 10% cash appearance bond is an option that allows the individual to recoup their money if they are compliant with court obligations. Removing this option leaves only the use of bail bondsmen, where a percentage of the money held by the bondsman is always kept, and never returned.

The decision in *State v. Barton*, 181 Wn.2d 148, 331 P.3d 50 (2014), has led to an unnecessary Superior Court rule change that has negatively impacted the available options for low income individuals to remain out of jail while a criminal matter is being processed. There is significant negative impact to the economic and social stability of people in low income communities due to this rule change. For individuals who have to remain in jail while a case is being prosecuted due to a lack of financial options for posting bail, there is an increased likelihood that the individual will lose their housing, their employment, custody of their children, possession of their car, and incur exponential financial burdens due to their time detained. It is also well established that individuals who are detained are more likely to plead guilty to a criminal charge so that they can be released than individuals who can remain in the community while their case is prosecuted because they can post

bail. Criminal convictions also have a negative impact on the economic and social stability of individuals in the community. It can be harder to find rental housing, employment and other public benefits when you have a criminal record.

It is the position of the ATJ Board that people should not be stuck in jail because they do not have the money or property interests to make bail. District Court and Municipal Court rules should retain all appropriate options for release, including the 10% cash appearance bond option. A rule that permits this use without requiring it will comply with the *State v. Barton* decision. The cash appearance bond allows low income individuals to seek release even if they cannot secure a bond with property or a commercial surety. The option of having the money returned at the conclusion of the case also avoids unnecessary financial hardship for indigent defendants and their families and is consistent with the purpose of bail.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ishbel". The signature is written in a cursive, somewhat stylized font. Above the first letter, there is a small horizontal line that looks like a flourish or a checkmark.

Ishbel Dickens
Chair, ATJ Board

C: Paula Littlewood, Executive Director, WSBA
Jean McElroy, Chief Regulatory Counsel, WSBA

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Thursday, April 28, 2016 4:22 PM
To: Tracy, Mary
Subject: FW: ATJ Board Comment to proposed amendment to CrRLJ 3.2
Attachments: 2016.4.19.ATJ Board Comments.CrRLJ 3.2.pdf

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Bonnie Sterken [mailto:bonnies@wsba.org]
Sent: Thursday, April 28, 2016 4:19 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Terra Nevitt <terran@wsba.org>
Subject: ATJ Board Comment to proposed amendment to CrRLJ 3.2

Good afternoon,

Attached, please find comments from the Access to Justice Board regarding proposed changes to CrRLJ 3.2. Please confirm receipt.

Thank you,

Bonnie M. Sterken, MPA | Justice Programs Coordinator
Washington State Bar Association | 206.727.8293 | bonnies@wsba.org
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