

April 30, 2016

To the Supreme Court of Washington

By email to: supreme@courts.wa.gov

Re: Comment to proposed amendment to CrRLJ 3.2 Release of Accused

Dear Justices:

I write to support the comment of the Washington State Bar Association Council on Public Defense (CPD) concerning the proposed CrRLJ 3.2 rule amendment. I also endorse Judge Deborah Fleck's suggestion that there be a required order for judges to use when making release decisions. And I support Judge Ronald Kessler's suggestion that CrR 3.2 be amended to restore the option of cash appearance bonds in Superior Court.

Whether an accused person is released pending trial can dramatically affect his/her ability to communicate with counsel as well as to assist in the defense. It can drastically affect the ultimate outcome of the case, and even a few days in jail can result in losing employment, housing, medical benefits, and can adversely affect the family of the accused person. Providing more flexibility for judges to order release with conditions that accused persons can actually meet is more fair and can save governments money.

The Pretrial Justice Institute has begun a project called 3 Days Count. It is a nationwide initiative designed in part to "Replace discriminatory cash bail with practical, risk-based decision-making..."¹ The Institute points out:

Even three days in jail can be too much, leaving low-risk defendants less likely to appear in court and more likely to commit new crimes—because of the stress incarceration places on fundamentals like jobs, housing and family connections.

....

People who could safely await trial under community supervision are also more likely to be sentenced to probation (instead of jail) if convicted, since they've already demonstrated good behavior under monitoring. By keeping nonviolent defendants out of the maze, we can improve their outcomes. This is a more commonsense approach to justice, producing better public safety and saving money.²

¹ Pretrial Justice Institute web page available at <http://projects.pretrial.org/3dayscount/>.

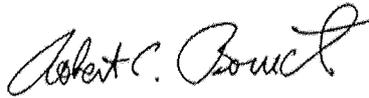
² Id.

The CPD emphasizes that the proposed amendment “would unduly limit judicial discretion to fashion the least restrictive form of bail necessary to ensure an individual defendant’s future appearance.” The cash appearance bond option helps accused persons who are unable to secure a bond with property or a commercial surety. The option of having the money returned at the end of the case can avoid unnecessary financial hardship for accused persons and their families.

Most people who go to court go to the courts governed by CrRLJ 3.2. Those courts are where many people obtain their perception of American justice. I urge the Court to provide district and municipal court judges with the most flexibility possible in CrRLJ 3.2.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Boruchowitz". The signature is written in a cursive, flowing style.

Robert C. Boruchowitz
Professor from Practice

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Monday, May 02, 2016 8:15 AM
To: Tracy, Mary
Subject: FW: comment on CrRLJ 3.2 proposed amendment
Attachments: rcb comments on 3.2.pdf

For you
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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.

-----Original Message-----

From: robert boruchowitz [mailto:rcboru@aol.com]
Sent: Saturday, April 30, 2016 2:48 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: comment on CrRLJ 3.2 proposed amendment

Please find attached my comments on the proposed amendment to CrRLJ 3.2.
Thank you.
Bob Boruchowitz