

Bruce Adsero
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Seattle WA 98125

Washington Supreme Court Rules Committee
P.O. Box 40929
Olympia, WA 98504-0929, or
VIA EMAIL: supreme@courts.wa.gov

April 30th, 2019

Re: Comment in support of proposed amendments to CrR 3.1(f), CrRLJ 3.1(f) and JuCR 9.3(a)

Dear Honorable Supreme Court Justices:

I am writing to express my support for this rule change. The change would eliminate potential barriers to indigent defendants obtaining the help of experts when necessary. The current rules do not sufficiently guide trial courts, public defenders or prosecutors on the appropriate mechanism to seek expert funding.

I work as a public defender in numerous municipal courts, and the proposed amendment to CRLJ 3.1(f) would have helped me in the past. In one case in particular, my client had a medical condition that explained the client's behavior at the time of the alleged crime. When I mentioned this to the prosecutor, they disagreed and opposed an *Ex Parte* request for funds to hire an expert, I had to weave together parts of different court rules, the RPCs and case law in order to educate them about my responsibility to preserve confidential information, defense strategy, and other privileged information. My prosecutor was reasonable, changed their position, withdrew their objection to an *Ex Parte* hearing and the case ultimately resolved fairly. The process for requesting supplemental funding was formalized to ensure such issues would not repeat themselves.

However, the process would have been shorter and more straightforward if I had been able to show the prosecutor that I could seek funding for an expert without interference from their office. An amended court rule would have allowed me to do that. Not every prosecutor or court will readily change their position. Washington has a multitude of courts where public defenders with limited resources need every tool to present a complete defense. In cases involving expert funding, a clear rule should be used to instruct the courts, prosecutors and public defense attorneys about the correct procedure for obtaining funds. It will also prevent unnecessary litigation, protect confidential information and give public defense attorneys a clear path for obtaining the expert funding necessary to present a complete defense in appropriate cases.

Thank you for your consideration.

Sincerely,

Bruce Adsero

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 2:39 PM
To: Tracy, Mary
Subject: FW: Proposed Rule Change CrR 3.1(f), CrRLJ 3.1(f) and JuCR 9.3(a) comments.
Attachments: Bruce Adsero Comment on Proposed Changes to CrR 3.1(f), CrRLJ 3.1(f) and JuCR 9.3(a).docx

From: Bruce Adsero [mailto:badsero@feldmanlee.com]
Sent: Tuesday, April 30, 2019 2:38 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed Rule Change CrR 3.1(f), CrRLJ 3.1(f) and JuCR 9.3(a) comments.

Please see my attached comment on the proposed rule change.

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