



Snohomish County

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March 13, 2019

Hon. Mary Fairhurst
Supreme Court of Washington
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed amendment to CrR 3.3

Dear Chief Justice Fairhurst,

I am writing in opposition to the proposed amendment to CrR 3.3.

The existing version of CrR 3.3 was drafted by a Task Force that included judges, legislators, prosecutors, defense attorneys, and crime victim advocates. The prior version of the rule counted "time elapsed in district court" against the allowable time for trial. The Task Force unanimously recommended eliminating that provision from the rule. The Task Force explained that this amendment "ensures that cases will have adequate time to be prepared for trial in superior court and reduces the possibility of coordination problems between different court levels." (The Final Report of the Task Force is available on the Washington Court's website.) This court adopted the Task Force's recommendation.

Nothing that has happened subsequently has provided any reason for re-considering this decision. CrR 3.3 allows only 60 days for trial when a defendant is detained in jail. Many things must happen within that time, including an omnibus hearing and pre-trial motions. 60 days is at best a minimal amount of time for these pretrial proceedings. District court proceedings do not eliminate the need for them. If the allowable time is shortened, the usual result will be a continuance for necessary pre-trial proceedings.

The proposed rule also sets a procedural trap. The time for trial in Superior Court would often start running before any charges have been filed there. In particular, CrRLJ 3.2.1(g)(3) allows the parties to "stipulate in writing that the case shall remain in the

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court of limited jurisdiction for a specified time." But under the proposed rule, such a stipulation would not extend the allowable time for trial in Superior Court. So a stipulated delay could result in mandatory dismissal of charges.

The proposed rule is also drafted in a way that leaves important questions unanswered. It defines a commencement date under two circumstances: (1) if "the charge is initially filed into superior court"; (2) if "a felony complaint is initially filed under CrRLJ 3.2.1(g), the defendant is detained in jail, and a preliminary hearing is not held." The problem is that these are not the only two possibilities. What happens if a felony complaint is filed but the defendant is *not* detained in jail? What happens if a preliminary hearing *is* held? The proposal rule does not specify a commencement date under those circumstances.

In short, the proposed rule would establish unrealistic deadlines, create a procedural trap, and create confusion in many situations. Similarly problems led this court to reject a former version of the rule that contained comparable provisions. No reason has been shown to reconsider that decision.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Adam Cornell', with a stylized, cursive flourish extending to the right.

ADAM CORNELL
Snohomish County Prosecutor

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 2:26 PM
To: Tracy, Mary
Subject: FW: Comments - Proposed Amendment to CrR 3.3
Attachments: proposed amendment to CrR 3.3.pdf

From: Kremenich, Diane [mailto:Diane.Kremenich@co.snohomish.wa.us]
Sent: Tuesday, April 30, 2019 2:24 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments - Proposed Amendment to CrR 3.3

Good Afternoon...

RE: Proposed Amendment to CrR 3.3

I've attached a letter from Snohomish County Elected Adam Cornell in opposition to the Proposed Amendment to CrR 3.3.


Thanks.

Diane.

Diane K. Kremenich
 Snohomish County Prosecuting Attorney - Criminal Division
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