

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Tracy, Mary](#)  
**Subject:** FW: comment CrR 3.4  
**Date:** Friday, February 7, 2020 8:00:21 AM

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**From:** Rogers, Jim [mailto:Jim.Rogers@kingcounty.gov]  
**Sent:** Friday, February 7, 2020 7:38 AM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** comment CrR 3.4

Thank you for the opportunity to comment to proposed rule CrR 3.4

This is about the following proposed change:

**CrR 3.4**  
**PRESENCE OF THE DEFENDANT**

(a) **Presence Defined.** Unless a court order or this rule specifically requires the physical presence of the defendant, the defendant may appear through counsel. Appearance through counsel requires that counsel present a waiver the defendant has signed indicating the defendant wishes to appear through counsel.

Though well meaning, this truly is a terrible idea. This rule will encourage defendants to not come to court for many proceedings, and it will become common practice. Justice will become opaque. Defendants will become distrustful of the justice system. I speak as a 15 year member of the bench and the former Chief Criminal Judge of King County. I have heard defendants openly voice distrust even when they had to come to court and their lawyers had them signed waiver after waiver. If they did not have to appear at all, and some lawyers will sell waiver of appearance to avoid warrants, some begin to believe that justice is being done in secret.

I also fear that it will encourage continuances when the client is not present to ask questions, seek direction.

Also, the rule is unnecessary. Some defendants already waive their physical appearance (appearing telephonically) or their appearance altogether for a few hearings. But to make a rule that makes nonappearance as the presumption is a very bad precedent.

The technology exists to allow every defendant to appear remotely, now. They can call in. We also already have a rule that allows video appearances. The rule was designed for in custody defendants, but we are about to use it for out of custody defendants ( King County Superior Court is about to institute a project for out of court video appearances.)

Please do not adopt this rule. This is the defendant's case, their life, their constitutional right to appear.

Regards,

James (Jim) E. Rogers  
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