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Subject: FW: Support for WDA Suggested Changes to CrR 3.4 and CrRLJ 3.4
Date: Wednesday, September 30, 2020 10:48:24 AM

From: Mike Berens [mailto:mike@soundmilitarylawyer.com]
Sent: Wednesday, September 30, 2020 10:46 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Support for WDA Suggested Changes to CrR 3.4 and CrRLJ 3.4

Good morning,

My name is Mike Berens and I am an attorney in private practice. I am also the State Staff Judge Advocate for the Washington Air National Guard. I have served 14 years in the Air Force/Air National Guard. I am writing to you in my civilian capacity. I have been in private practice since I left active duty in 2014.

I am writing to you to express my support for the WDA proposed changes to CrR 3.4.

In my experience, arraignment is a significant "attention getter" for every client that I have represented in the past six years. Requiring criminal defendants to appear for hearings to set matters over or for other relatively minor proceedings comes at a significant cost to defendants. Allowing defendants to be represented by their attorney without their presence will, in many cases, allow them to remain at work and be more productive. The change in the rule might even save some jobs for defendants and that is in the interest of society - especially today.

The presence of my clients at the interim proceedings in question is not required to keep me in touch with my clients and there is no merit to the argument that their appearance at these proceedings strengthens their constitutional right to participate.

Any assertion that the appearance requirement assures that defense counsel will relate all offers suggests the defense bar is so low that we would not follow the rules of ethics and our duty to our clients. That is offensive.

Any argument about client incompetence issues being identified via these interim proceedings suggests counsel would not be in contact with their clients and be in a position to alert the prosecutor and court in a timely manner and is equally without merit.

Finally, the argument that defendants can use appearances at interim proceedings to build a record of timely appearing to avoid bail in the future suggests most defendants in Washington courts are habitual criminal offenders and that the court system is so broken that it does not work. This is absurd.

Please accept my support for the changes proposed by the WDA.

MIKE J. BERENS
Attorney & Veteran
600 University Street, Suite 1020
Seattle, WA 98101
Fax (206) 624-6885 | Phone - (888) 407-5707
www.soundmilitarylawyer.com

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