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Subject: FW: Comment on Proposed amendments to GR 11.3
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From: Houston, Kyle [mailto:Kyle.Houston@kingcounty.gov]
Sent: Friday, January 14, 2022 10:11 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
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Good morning,

I am a Senior Deputy Prosecuting Attorney with the King County Prosecutor's Office, and a deaf person. I have used American Sign Language (ASL) interpreters my whole life in a multitude of settings, including classrooms, courtrooms, the doctor's office, conferences, meetings, telephone calls, just to name a few. My comments below are primarily focused on ASL remote interpretation, although I suspect many of the same concerns would apply to spoken language interpretation as well.

I am writing to express my opposition to the proposed amendments to GR 11.3(a) that would remove the requirement that the Court make a good cause finding that an in-person interpreter is not practicable for non-evidentiary hearings. The effect of this change would be to allow the Court to utilize remote interpreters for all non-evidentiary hearings (subject to the requirements of the other sections of 11.3) without needing to make such a finding.

The use of remote interpreters should not become routine practice even for non-evidentiary hearings, rather an in-person interpreter should be the standard. Attorneys don't always have ready access to interpreters and will often converse with their clients prior and subsequent to appearing on the record because an interpreter is available. Also, having an interpreter physically present allows for attorneys and clients to quickly confer in private. This helps preserve attorney-client privilege which would be very difficult to maintain using remote interpreters. A plea hearing would be considered non-evidentiary, and having appeared on behalf of the State in numerous plea hearings over the years, I can attest that most defendants confer with their attorney at least once while the plea is ongoing. Keeping those communications confidential and *convenient* would become very difficult to do with remote interpretation.

I have used video interpreters for making telephone calls and for medical appointments and have found that interpreters appearing over video is just not an adequate substitute for an in-person interpreter. ASL is a 3-D language that's not always adequately captured on a 2-D screen especially if the internet connection isn't great. In medical settings, the video screen has to be constantly moved around the room and adjusted so that the interpreter and I can see each other. If I'm laying down on the table for an examination, I can't see the screen and can't respond to the doctor's questions. I've had appointments take significantly longer than they should or even postponed because of poor internet connections making it impossible to converse with medical providers. I've found myself holding back on questions or responses because of my frustration with the use of remote interpreters which isn't an ideal outcome for medical care. The clinic where I get most of my medical care at transitioned from live interpreters to video interpreting and now back to live interpreters again because the doctors and patients were getting so frustrated with all the issues and the impacts on the quality of care.

In courtrooms, there's people situated in multiple locations and constantly moving around. Trying to move the video screen around while wrangling with internet connection issues is not ideal at all. It's also very difficult for an interpreter to adequately be able to provide full interpretation and context if they can't see what's happening or detect who's speaking and can't move around to ensure that the deaf person is best able to view the interpreter AND the witness/evidence/speaker.

The only times I've used a remote interpreter for a Court appearance is when I'm appearing via telephone for certain preliminary hearings or a post-sentencing review hearing. During those appearances, I have a direct video connection to my office's staff ASL interpreter who is assigned to me on a full-time basis and he calls into the Court's conference line. We work together on a daily basis and have a very effective working relationship, yet, there's been challenges. Among them would be video quality, lost connections, and trying to fully read a 3-D language through a 2-D screen. When I'm appearing for Court in person, I would never use a remote interpreter, I would not be able to effectively perform my duties as an officer of the Court.

The proposed amendment to the comment to 11.3(a) adds a suggestion that Courts should make preliminary determinations on the record about the effectiveness of remote interpretation. I have concerns that the Courts may not always be in the best position to determine the effectiveness of remote interpretation because they are not the direct consumers of interpreting services. I am in a position where I have been fully empowered to make all decisions related to my interpreters including who interprets for me, when remote interpreting is appropriate, when it would not be and so forth because it has been widely recognized that I am the best person to be making those determinations for myself.

For the foregoing reasons, I respectfully request that the Court reject the proposed amendment to GR 11.3(a), or at the very least, exclude ASL interpreters from the proposed amendment, retaining the good cause finding requirement for the remote use of ASL interpreters for all hearings. I also respectfully request that the Court consider instead amending GR 11.3(a) to significantly limit the use of remote ASL interpreters.

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