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**Subject:** FW: Comment on Proposed Amendments to GR 11.3  
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**From:** Hinds, Patrick [mailto:Patrick.Hinds@kingcounty.gov]  
**Sent:** Monday, February 28, 2022 9:55 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comment on Proposed Amendments to GR 11.3

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Dear Clerk of the Supreme Court,

I am writing to add my voice in opposition to the proposed amendments to GR 11.3. I am a senior deputy prosecuting attorney with the King County Prosecuting Attorney's Office. I have been a criminal prosecutor in Washington courts for almost 20 years and have represented the state in numerous hearings and trials where defendants, victims, witnesses, and others have utilized the services of an interpreter in order to engage with the criminal justice system. Over the last two years of the COVID-19 emergency, I have also seen firsthand the technical problems that regularly arise when interpreters and/or participants in the system appear remotely. In this context, while the goals of the proponents of these amendments may be noble, the actual proposals create at least two apparent problems.

First, the proposal authorizes courts to appoint interpreters to provide remote interpretation for any "non-evidentiary proceeding" without requiring that the court first find good cause. However, in criminal cases, "non-evidentiary proceedings" include guilty pleas, sentencings, and important pretrial proceedings (potentially including motions in limine and voir dire). Given the challenges of remote interpretation, it seems unfair to require defendants to rely on remote interpreters for these important proceedings without a finding of good cause. It also seems impractical. These proceedings often involve significant consultation between defendants and counsel, which—when combined with the challenges of remote interpretation—is the perfect recipe for technical issues that will delay or derail various proceedings. Even worse, the issues with remote interpretation may very well discourage defendants from consulting with counsel, thereby undercutting the very goals of the rule.

Second, the final sentence of subsection (a) of the rule as amended requires "a preliminary determination on the record, on the basis of the testimony of the person utilizing the interpreter services, of the person's ability to participate via remote interpretation services." However, it is

unclear if this preliminary determination is required only for evidentiary hearings (for purposes of the finding of good cause) or must be made before any remote interpretation. At the very least, this ambiguity must be clarified.

For these and other reasons, I ask the Court to reject these proposed rule changes. There are clearly numerous ways in which the criminal justice system may be improved and we should not be afraid to examine these issues with an open mind and adopt new and novel approaches when appropriate. That does not mean, however, that this Court should adopt flawed proposals—particularly on an expedited basis—simply because they are well intentioned.

Respectfully,

**Patrick Hinds** (he/him)

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