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From: Hudnell, Efrain [mailto:ehudnell@kingcounty.gov]
Sent: Thursday, September 30, 2021 3:46 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Opposition to changes in CrR 3.4

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For the consideration of the Supreme Court of the State of Washington.

I am writing in opposition to the proposed CrR 3.4 changes that permit Defendants to appear via Zoom for all hearings and stages in criminal case.

First, the constitutionality of remote appearances satisfying the confrontation clause is unsettled at best. This creates incentive for defendants to appear remotely, and subsequently appeal a finding of guilt based on ineffective assistance of counsel in advising a defendant on their right to confront their accuser. Moreover, should subsequent interpretation of the confrontation clause by federal courts find that remote appearances do not satisfy, then would every case wherein a defendant was found guilty by way of remote appearances be open for subsequent reopening and vacation on the verdict.

Second, such a rule change would deepen equity concerns by permitting those with access to high-speed internet, broadband, and computers to appear via Zoom from where ever they please and those who do not have those items to appear in person. This will have the greatest impact on communities of BIPOC and immigrants and those disenfranchised.

Third, Defendants being violated or convicted and cannot be remanded if on Zoom, and if ordered to report into custody would have hours, if not days or weeks to flee the state before a court would be able to issue a bench warrant based on their failure to report.

Lastly, and this cannot be understood, remote appearance options appear attractive for their ability to eliminate travel times and bridge geographical separate instantaneously. However, as any

practitioner, judge, or staff member affiliated with trial courts that take advantage of remote appearance options will tell you: technical difficulties that affect the proceedings are frequent. Any issue, from frozen screens, to participants being less than competent on the platform of choice, could be grounds for mistrial.

It is for these reasons, that I respectfully ask that the proposed rule changes not be allowed. There are indeed incredible advantages to allowing defendants to appear remotely in criminal cases, however, those must be examined on a case by case basis, and with incredible care so as not to create a procedural quagmire for the already overburdened trial courts in our great state.



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