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**Subject:** FW: Comment on Proposed Amendments to CrR 3.4  
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**From:** Alexander, Eileen [mailto:Eileen.Alexander@kingcounty.gov]  
**Sent:** Thursday, September 30, 2021 4:39 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comment on Proposed Amendments to CrR 3.4

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Good Afternoon –

I am writing in opposition to the proposed CrR 3.4 changes that would permit Defendants to appear remotely for all hearings and stages in a criminal case. There are so many practical, evidentiary and equitable issues with this proposal. Here are a few:

- Reliability of internet connections and Zoom during the pandemic has been inconsistent, even for the brief hearings that have been conducted over Zoom the past 18 months. The technological problems don't improve with longer or more complex hearings (such as testimonial hearings and trial) .
- When a defendant appears in court, we can all be confident that the defendant has an opportunity to hear all that is being said, see all that needs to be seen, and consult with counsel privately when necessary. A zoom hearing provides none of that. Can the court be sure that the sound didn't cut out when an important instruction or a critical piece of testimony was given? These technological issues are not always obvious or apparent in the moment. What would happen on appeal if a defendant indicated the sound or video cut out during a zoom trial, by no fault of his or her own? Would that impact the defendant's right to be present at a critical stage, or participate in their own defense?
- The ability to identify a defendant from the stand would undeniably be impacted, to the detriment of the State.
- Testimonial hearings, trials, plea hearings and sentencings that require in person appearance allow the court to see that the defendant is not being coached off camera or reviewing or reading documents that are not marked exhibits during testimony. In person appearance also helps to ensure the defendant is entering into a plea freely and voluntarily. Remote appearance provides none of these assurances, and compromises the integrity of our criminal courts.

It is patently unfair to grant the defendant an option - to appear remotely - that is not similarly granted to victims, witnesses, or the community at large.

- Practically speaking, and at risk of stating the obvious, it is impossible to remand a defendant when that defendant is appearing remotely.
- This proposed rule exacerbates the inequities experienced by marginalized individuals and communities – those who may not have internet access or Zoom friendly devices. The privilege to appear remotely would be available only to those defendants who have the means to do so.
- Smaller jurisdictions have struggled to accommodate remote appearance at hearings that have been permitted during the pandemic. To potentially have remote appearance at each and every hearing would overburden the already stretched resources of those jurisdictions.

This proposal makes appearance convenient for some defendants, but is detrimental to the integrity and efficiency of Washington courts. The Court should reject the proposed CrR 2.4 changes.

Thank you,

**Eileen Alexander**

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