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Subject: FW: Proposed changes to rule CrR 3.4
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From: Taylor, Karissa [mailto:Karissa.Taylor@kingcounty.gov]
Sent: Thursday, September 30, 2021 3:13 PM
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Cc: Taylor, Karissa <Karissa.Taylor@kingcounty.gov>
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I am writing to strongly object to the proposed changes to Rule 3.4. As someone who has been in a criminal trial during the pandemic, I have seen the numerous ways that video appearances are substantially less efficient and less reliable than in person appearances. First, allowing the defendant to appear by video is less efficient. During a trial last spring, I had a marginally important witness testify via Zoom. It was slow and inefficient because of the time we had to spend making sure the technology worked, that the parties could see each other, wait for the witness to not be distracted, and then we had no certainty the court proceedings were properly being recorded. Watching Zoom voir dire, it's obvious that people on cameras are distracted by what is going on in their home, they are not paying attention, their WiFi cuts out. Second, it is less reliable. It is difficult for witnesses to make in-court identifications, understand what is being said by witnesses (especially if the witnesses are also wearing masks), and is frankly downright silly that every other person in the trial is in the courtroom except for the person charged with the crime. The arguments on appeal are legion: the defendant didn't really have the opportunity to face his accusers, he was unable to confer with counsel appropriately, the identifications were suspect because the defendant was the only person on the screen, etc.

These arguments don't even address the inequity of this rule – only those defendants with means to have the hardware, the software and Internet access will be able to take advantage of being allowed to “call” in to trial. How does this rule work for defendants who don't speak English? Is the court going to provide a translator at the defendant's home? This rule will not have the intended effect of making trials more efficient and more fair, it will do just the opposite.

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