

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



DANIEL T. SATTERBERG
PROSECUTING ATTORNEY

JUSTICE
COMPASSION
PROFESSIONALISM
INTEGRITY
LEADERSHIP

September 30, 2021

Clerk of the Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Amendments to CrR 7.8

Dear Justices of the Supreme Court,

Thank you for the opportunity to comment on the proposed amendments to the Superior Court Criminal Rule (CrR) 7.8. I share many of the concerns articulated by my colleague, James Whisman, in his comment, as well as those expressed by Andrew Van Winkle in his comment. I agree that the proposed changes are over-inclusive, ambiguous, and likely to thwart their stated purpose. The Court should either adopt a general order regarding State v. Blake, 197 Wn.2d 170, 481 P.3d 521 (2021), or redraft the proposed amendments to better achieve their goal.

As currently drafted, the proposed amendments predicate relief on a defendant's contention that they were convicted or sentenced under a statute "determined to be void, invalid, or unconstitutional" without clarifying *who* must have made such a determination. This will lead to confusion and unnecessary litigation at a time when the courts are already overloaded and resources are increasingly scarce. The amendments should specify that the determination should be by the Supreme Court, the Washington Supreme Court, or an appellate court where review was either not sought or was denied, consistent with well-established principles of legal authority.

Further, the proposed changes will lead to frivolous motions and costly appeals because in order to obtain relief, a defendant need merely contend that an unconstitutional statute applies, rather than make a substantial showing of such. For example, our office has received motions from defendants convicted of delivery, or possession with intent to deliver, who wrongly claim that they are entitled to resentencing under Blake. Superior courts must be able to transfer those motions to the Court of Appeals rather than deny them, as a denial would result in costly and frivolous direct appeals.

I respectfully urge you to reject the proposed amendments to CrR 7.8.

Sincerely,

A handwritten signature in black ink that reads "Daniel T. Satterberg". The signature is written in a cursive style with a large, stylized initial "D".

DANIEL T. SATTERBERG
King County Prosecuting Attorney

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Subject: FW: Comment re: CrR 7.8 Proposed Changes
Date: Thursday, September 30, 2021 1:12:36 PM
Attachments: [DTS Letter in Opposition to CrR 7.8.pdf](#)
Importance: High

From: Relyea, Kristin [mailto:Kristin.Relyea@kingcounty.gov]
Sent: Thursday, September 30, 2021 1:10 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment re: CrR 7.8 Proposed Changes
Importance: High

External Email Warning! This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, **DO NOT DO SO!** Instead, report the incident.

Dear Clerk,

Attached please find a comment regarding the proposed changes to CrR 7.8 by Daniel T. Satterberg, King County Prosecutor. Please confirm receipt.

Thank you,
Kristin

Kristin A. Relyea
Training Coordinator, Criminal Division
Senior Deputy Prosecuting Attorney
King County Prosecutor's Office
516 Third Ave.
Seattle, WA 98103

(206) 477-1944 tel.

****I work MONDAYS, WEDNESDAYS, & THURSDAYS (and often at night and on the weekends!)****