From: OFFICE RECEPTIONIST, CLERK
To: Linford, Tera
Subject: FW: Proposed amendment to CrR 7.8
Date: Thursday, September 30, 2021 2:52:10 PM

From: Seth Fine [mailto:dpafine@yahoo.com]
Sent: Thursday, September 30, 2021 2:51 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed amendment to CrR 7.8

I urge the court not to adopt the proposed amendment to CrR 7.8

This court's decision in Blake gave rise to a massive procedural problem. Adding thousands of cases to the dockets of Superior Courts necessarily clogged those already-busy courts. No court rule could prevent that problem. That was, however, a highly unusual event. The court should resist the temptation to modify rules that are already working, to deal with an event that will rarely if ever be repeated.

This amendment could create serious problems in the future. It requires trial courts to grant a full hearing (and presumably appoint counsel) for defendants who raise particular contentions. It is easy for a pro se defendant to contend almost anything. It is harder to raise a meritorious contention. If this rule is adopted, many convicted offenders are like to raise non-meritorious contentions in order to get a court hearing.

It is hard to see what problem this rules solves, that outweighs the problems it creates. Under the existing rule, the court should grant a hearing if a defendant raises a meritorious claim that his or her conviction is constitutionally invalid, or that his or her sentence reflected an unconstitutional conviction. A full hearing is therefore already required. If the perceived problem is that judges are not following the rule, that problem cannot be solved by a rule.

The existing rule has worked well under most circumstances. It calls for judges to conduct a preliminary review of post-sentencing challenges. If they make a substantial showing of grounds for relief, they must be addressed on the merits. If not, they are transferred to the Court of Appeals for a review on the merits. This system minimizes the waste of court time with insubstantial claims, while ensuring that all claims are properly reviewed. This system should continue in operation.

Seth Fine