From: OFFICE RECEPTIONIST, CLERK
To: Linford, Tera
Subject: FW: Opposition to Proposed Changes to CrRLJ 3.3 and 3.4
Date: Friday, February 18, 2022 2:34:12 PM

From: Aleksandrea Johnson [mailto:ajohnson@snocopda.org]
Sent: Friday, February 18, 2022 1:13 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Opposition to Proposed Changes to CrRLJ 3.3 and 3.4

Hello,

I oppose DMCJA's proposal to amend CrRLJ 3.3 & 3.4.

These proposed changes undermine the Court's efforts to make court presence requirements accessible and equitable and also undermine the holding of *State v. Gelinas*. What COVID showed us is that prioritizing flexibility and court-involved persons lives work – they do not inhibit court business or the flow of cases. The presumption that defendants must physically be present in court just reintroduces problems that existed before the current rule went into effect. It burdened people accused of misdemeanors, particularly poor people, with many trips to court when they already have difficulty with transportation, access to child and family care, work, school, or treatment. The ability to gain waivers of presence for my indigent clients in Snohomish County has been so impactful – it has allowed my clients to give me the time that I need to properly investigate, research, and litigate their cases. It is much easier for my clients to take one or two planned days off of work for a motions hearing or trial then several days throughout the year for pretrial hearings. This results in more just outcomes for their case

This change will result in more bench warrants and it will be inequitable. Some people will be unable to get to court frequently because of existing lack of access transportation or other barriers that indigent people face. Folks who are able to take time off, who are able to sit in court for hours waiting cases to be called, will be less likely to get warrants. These proposed changes will expand circumstances that judges can issue warrants than they are currently able.

Lastly, it is extremely problematic to require defense attorneys to let their clients know of new court dates and require defense attorneys to report their communications with clients. This is particularly problematic to already busy and overburdened public defenders managing large caseloads with limited resources. But further, it violates RPC 1.6 which requires lawyers to keep communications with their clients confidential. As a public defender, many clients we have distrust the system and as a result distrust us. They didn't choose us to be their lawyer. It takes time to build trust with our clients – to earn it. Requiring defense attorneys to provide notice and to tell the court when we have communication will harm that trust building process.

CrRLJ 3.4 as it currently stands is working well in most courts in Snohomish County – my client's having the option to let me appear on their behalf for simple continuances has made calendars run more efficiently, quickly, and smoothly. It has lead to stronger communication and planning with my clients. It has lead to less warrants and better resolutions for my clients – whether via negotiation and plea or litigation and trial. However, courts and judges within Snohomish County and across the state have made it clear that they oppose current CrRLJ 3.4 and *Gelinas* by adopting local court rules counter to CrRLJ 3.4. Rather than adjusting to the changes and allowing oral waivers, much effort has been made to require written waivers. CrRLJ 3.4 provides advantages to defendants and to the court calendars. It leads to smooth pretrial calendars, deliberate resolutions, and opportunities for litigation and trials.

Please do not adopt these proposed changes.

Thank you for your consideration,

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Judge Bui - Dept. 3A

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Judge Howard - Dept. 3B

Meeting ID *924 0984 1663* *Click here to join*