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Subject: FW: DMCJA proposal for changes to CrRLJ 3.3 and CrRLJ 3.4
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From: Christopher Swaby [mailto:swabylaw@gmail.com]
Sent: Friday, February 18, 2022 12:34 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: DMCJA proposal for changes to CrRLJ 3.3 and CrRLJ 3.4

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good afternoon

I write to ask that you not institute the changes to CrRLJ 3.3 & 3.4 proposed by the District and Municipal Court Judges Association. A presumption that defendants must be physically present in court will re-introduce problems that existed before February 2021, when the current version of CrRLJ 3.4 went into effect. Those problems include burdening people accused of misdemeanors with many trips to court when they may have difficulty with transportation or may already have multiple demands on their time, such as childcare, care for elderly relatives, work, school, or treatment. The change would likely result in more bench warrants because some people will be unable to get to court frequently and because the change would allow judges to issue warrants in more situations than they currently can. Requiring defense attorneys to let clients know about new court dates would burden already busy public defenders, and potentially make the attorneys witnesses against their clients

should the client not appear at a hearing; in such a situation, the defense attorney would then have to withdraw from both cases, disrupting representation. Requiring defense lawyers to say whether they have consulted with their clients since the last hearing would violate RPC 1.6, which requires lawyers to keep communications with their clients confidential. It could also reduce the trust people charged with crimes have in their lawyers.

There are so many hearings in which nothing happens that requires a defendant's presence, and too many hearings in which a defendant's case isn't called in a timely fashion, requiring the hearing to be continued. The cost of travel, daycare, missed work is too much for most people finding themselves charged with crimes. I practiced for years in a jurisdiction in which defenders could waive their client's appearance for almost every hearing other than trial - that court recognized that most hearings are about the lawyer so there was no reason to have the defendant appear. Since arriving in WA in 200, I wondered why my clients were required to sit through what might be hours of a docket when there was no reason for them to do so.

The changes to CrRLJ 3.3 & 3.4 that went into effect last year were beneficial to our clients and they shouldn't be changed again.

thank you

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