

April 24, 2024

Justices of the Washington Supreme Court
P.O. Box 40929
Olympia, Washington 98504-0929

VIA E-MAIL: supreme@courts.wa.gov

RE: Proposed New Rule ARLJ 15

Dear Justice Yu,

We oppose proposed ARLJ 15, which would require that all participants in a case physically appear for hearings in courts of limited jurisdiction unless “a statute, court rule, or order of the court” permits otherwise. The proposed rule is confusing and potentially harmful to individuals charged with crimes.

We presume that because CrRLJ 3.4 allows individuals charged with crimes to appear in person, remotely, or through counsel, CrRLJ 3.4 would prevail over ARLJ 15 in misdemeanor cases, pursuant to subsection (a). However, there is some ambiguity in ARLJ 15.

People accused of crimes have the right to fair motion hearings and trials, but the proposal could harm those rights. The proposed rule governs the appearance of “participants,” and proposed ARLJ 3(10) defines participants as including witnesses. Subsection (c) could let courts excuse law enforcement and other witnesses from appearing in person at any criminal proceeding, including trials and motion hearings. That would undermine the right of people accused of crimes to fully and fairly litigate their cases.

Finally, we are concerned about the effect the rule would have on some infraction hearings. The default of physical appearance in proposed ARLJ 15 would apply to hearings where method of appearance is not specified, including hearings for people who admit to a traffic infraction but indicate they cannot pay the fine under IRLJ 2.4. Under IRLJ 2.4(b)(5)(ii), courts can tell people attesting an inability to pay “how to

submit evidence of inability to pay.” The rule is unclear about whether the court can order a hearing for that purpose. Further, RCW 46.63.190(8) specifies that a court “may require a person who fails to make payment as required under a payment plan to appear and provide evidence of ability to pay.” Failure to abide by a court’s requirements regarding appearance at a hearing would likely lead to a license suspension, putting the driver at risk for criminal charges of third degree driving while license suspended. People should be able to attend these important hearings remotely.

Thank you for your time and attention.

Sincerely,

Civil Survival

Jason Schwarz, Director
Snohomish County Office of Public Defense

Kathleen Kyle, Executive Director
Snohomish County Public Defender Association

Magda Baker, Director of Legal Services
Washington Defender Association

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[2024. Comment _proposed ARLJ 15.pdf](#)

From: Magda Baker <Magda@defensenet.org>
Sent: Wednesday, April 24, 2024 10:28 AM
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Cc: Prachi Dave <prachi.dave@civilsurvival.org>; jason.schwarz@co.snohomish.wa.us;
(kkyle@snocopda.org) <kkyle@snocopda.org>
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Civil Survival, Snohomish County Office of Public Defense, Snohomish County Public Defender Association, and Washington Defender Association submit the attached comment regarding proposed ARLJ 15.

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