From: OFFICE RECEPTIONIST, CLERK
To: Martinez, Jacquelynn
Subject: FW: Comment Opposing Changes to CrRLJ 3.3 and 3.4
Date: Tuesday, April 30, 2024 1:32:22 PM

From: Boeshans, Evan <eboeshans@kingcounty.gov>
Sent: Tuesday, April 30, 2024 1:06 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment Opposing Changes to CrRLJ 3.3 and 3.4

To the Court,

I am writing to express my opposition to the changes proposed to CrRLJ 3.3 and 3.4. The steady elimination over the past few years of requirements that criminal defendants appear physically in Court have irreparably harmed the Washington court system. From my observations having practiced in Washington criminal courts since 2019, case age has gone up and inefficiencies have increased exponentially. More than ever, law-abiding Washingtonians are forced to endure trauma and economic harm while they wait for cases of which they were victims to be resolved. The Court should not further magnify these already significant issues.

The changes proposed to CrRLJ 3.3 would allow the time for trial commencement date to reset following a defendant's failure to appear without physical appearance from the defendant. This change is proposed by the working group without apparent explanation as to why it necessary or appropriate. Time for trial stops running upon a failure to appear for good reason, the State cannot be expected to make progress in a prosecution without the involvement of the defendant. To not require physical appearance in Court even after a defendant has failed to appear in any way allowed by 3.4 chips away even further at the stages at which defendants need to be involved in criminal cases. Defendants should be made to answer for violations of court orders, just like any other litigant would be made to do so. Requiring physical appearance is the most natural required showing of involvement and intent to comply with orders following a failure to appear.

The changes purposed to CrRLJ 3.4 are perplexing. The elimination of the definitions section removes valuable guidance to Courts, the State, and the defense bar. It welcomes ambiguity and argument while being wholly unnecessary to the stated goals of the amendment. Inserting language regarding defendants waiving their right to be present at hearings that is specific to cases in competency status under RCW 10.77 makes some sense. It is understandable that defense attorneys would feel uncomfortable representing to the Court that their client waived physical

appearance when said client's competency is in question. However, the proposed language removes any requirement of consultation or communication for defendants subject to competency proceedings. Though it is clear this was not the goal of the proposed amendment, it enables disparate treatment of these defendants solely because their competency is in question. It allows proceedings which affect their liberty to move forward without their input or involvement. Defendants are no less deserving of the law's protection just because their competency to stand trial is at issue.

I urge the Court to reject the purposed changes to CrRLJ 3.3 and 3.4.

Very Respectfully,
Evan

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