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Subject: FW: Comment on Proposed GR 41
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From: McDonald, Brian <Brian.McDonald@kingcounty.gov>
Sent: Wednesday, March 13, 2024 8:58 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: McCoy, Adrienne <Adrienne.McCoy@kingcounty.gov>; Shah, Ketu <Ketu.Shah@kingcounty.gov>
Subject: Comment on Proposed GR 41

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Dear Clerk of the Court,

I previously sent the attached letter from current King County Superior Court Judges urging the Court to adopt Proposed GR 41.

Since that time, the proposed rule has been published for comment. I want to ensure the Court has this letter and, therefore, I am re-submitting it as part of the comment process.

Judge Brian McDonald
King County Superior Court
Courtroom 762
Seattle, WA 98104
(206) 477-1617

Hatrick H. Oishi
PRESIDING JUDGE OF THE
SUPERIOR COURT KING COUNTY
COURTHOUSE SEATTLE,
WASHINGTON 98104-2381

July 19, 2023

Chief Justice Steven Gonzalez
Washington State Supreme Court

Re: Proposed GR 41

Dear Chief Justice Gonzalez and Supreme Court Justices,

The BJA's Remote Proceedings Work Group recently submitted proposed GR 41, allowing for the continuation of virtual voir dire. On behalf of the King County Superior Court Judges listed below, we urge you to adopt this proposed rule.

The undersigned judges have substantial experience with both in-person voir dire and virtual voir dire, and we believe that virtual voir dire furthers access to justice by (1) enhancing the ability of individuals to participate as jurors, and (2) allowing the court to handle more jury trials than previously possible.

For the past three years, the King County Superior Court has conducted voir dire over the Zoom platform for nearly all jury trials. For most trials, we hold two or three sessions of voir dire in panels of approximately 20 potential jurors. If a juror does not have access to necessary technology, we provide them with an iPad or have them attend voir dire in court.

We continually strive to ensure that our jury panels are representative of the general population. It is our belief that virtual voir dire has resulted in more diverse jury panels. The ability to participate in jury selection remotely makes it much easier to participate in the voir dire process. It demands less time, requires no travel and is more affordable for people who receive only \$10.00 a day for their service.

Previously, the King County Superior Court summoned jurors to appear in person at the courthouse, and they would spend a day or two in the jury room, occasionally being sent to a courtroom for voir dire. Now the entire process only takes several hours.

As a result, more individuals, whom we might lose before jury selection even begins, become engaged in the trial process. In our experience, after jurors participate in voir dire and hear from the parties and the court, they are more invested and willing to participate as jurors. By expanding the number of persons initially engaged in the jury selection process, we have seen jurors from more diverse backgrounds participating in jury selection and trials.

Virtual voir dire also furthers access to justice because it allows the court to handle more jury trials and avoid unnecessary continuances. With virtual voir dire, we can summon far more jurors each week than before the COVID pandemic. The capacity of our jury rooms limits the numbers of potential jurors that we can summon in person, and pre-COVID, it was not uncommon to run out of jurors for pending trials. Now, the number of jurors we can summon for virtual voir dire is virtually unlimited; we no longer see trial delays because of a lack of jurors. This is a major procedural improvement which is particularly critical as we work through our trial backlog.

Some of us (and many lawyers) were initially nervous about virtual voir dire and uncertain how well it would work. We have discovered that it works as well as in-person voir dire in obtaining information about potential jurors and engaging with them. The virtual voir dire session involves fewer jurors (20) than in-person voir dire (50-60), making it less likely a juror is overlooked by counsel. The judge and counsel have a full view of each juror's face, and in an excellent position to observe any jurors who are distracted. The process encourages less reliance on body language or other subjective factors and focuses attention on the substance of what prospective jurors say. This is a better approach to jury selection, in part because it de-emphasizes factors that have historically been used to justify race-based uses of peremptory challenges.

We are convinced video voir dire is fundamentally fair and that it should be an option for courts moving forward. Video jury selection allows more people to participate in jury service, it allows trials to move forward, and it affords far greater respect to prospective jurors' time as they complete their civic duty. Moreover, it provides parties with the requisite insight as to who might serve on their jury.

We encourage you to adopt the proposed rule. If any Justice is interested in learning more about virtual voir dire, we would be delighted to arrange for you to log onto and observe a virtual voir dire session.

Sincerely,

The Judges of King County Superior Court listed below

Hon. Patrick Oishi, Presiding Judge
Hon. Ketu Shah, Assistant Presiding & Chief Criminal Judge
Hon. Susan Amini
Hon. Kristin Ballinger
Hon. Johanna Bender
Hon. Joe Campagna
Hon. Samuel Chung
Hon. Andrea Darvas
Hon. Karen Donohue
Hon. Marshall Ferguson

Hon. Taki Flevaris
Hon. Veronica Galván
Hon. Jamie Hawk
Hon. Janet Helson
Hon. Jason Holloway
Hon. David Keenan
Hon. Matt Lapin
Hon. Mark Larrañaga
Hon. Nelson Lee
Hon. Hillary Madsen
Hon. Adrienne McCoy
Hon. LeRoy McCullough
Hon. Brian McDonald
Hon. John McHale
Hon. Maureen McKee
Hon. Sean O'Donnell
Hon. Suzanne Parisien
Hon. Nicole Phelps
Hon. Cindi Port
Hon. Jason Poydras
Hon. Kristin Richardson
Hon. Mary Roberts
Hon. Andrea Robertson
Hon. James E. Rogers
Hon. Averil Rothrock
Hon. Michael Ryan
Hon. Ken Schubert
Hon. Michael Scott
Hon. Matthew Segal
Hon. Aimée Sutton
Hon. Tanya Thorp
Hon. Haydee Vargas
Hon. David Whedbee
Hon. Sandra Widlan
Hon. Josephine Wiggs
Hon. Matthew Williams
Hon. Coreen Wilson
Hon. Wyman Yip
Hon. Melinda Young