

Comment to proposed GR 3.2/proposed change to CR 59

Mr. Robert Hill has proposed two alternatives for providing incarcerated individuals with adequate time to seek reconsideration in civil cases. One proposal would amend CR 59 and the other would create a new general rule, GR 3.2. I write in support of the intent of Mr. Hill's proposal, but believe the proposal is underinclusive; to that end I also write to suggest an alternative, proposed below, which would amend existing GR 3.1. This comment represents my personal views and is not presented in my capacity as a court employee.

Mr. Hill's proposal and existing GR 3.1 are underinclusive because they omit consideration of individuals civilly committed to public institutions who may encounter just as much difficulty filing documents as those serving criminal sentences. There are also several other instances beyond motions for reconsideration for which confined individuals may not be able to meet current filing deadlines. Notably, Mr. Hill's proposal would extend the filing deadline for reconsideration out to 21 days. Because existing GR 3.1(a) deems documents filed upon deposit in an institution's internal mail system, a full 21 days is probably not necessary for filing and responding to matters that are intended to be addressed on shortened time, but some additional amount of time does seem necessary in my experience. In my experience working at the Court of Appeals, people confined to Washington's prisons regularly encounter difficulty gaining timely access to their legal mail and timely access to library facilities; this is especially true for individuals when they are initially transferred from county jail to state prison and transferred between prisons.

GR 3.1

SERVICE AND FILING BY ~~AN INCARCERATED~~ A CONFINED PERSON

(a)(1) ~~If an incarcerated~~ a confined person files a document in any proceeding, the document is timely filed if deposited in the institution's internal mail system within the time permitted for filing.

(a)(2) In any proceeding for which a statute or court rule provides a filing deadline of fewer than 15 days, the deadline shall be automatically extended to 15 days for any document filed by a confined person.

(a)(3) As used in this rule, "confined person" means any person committed by court order to a federal, state, county, or municipal correctional, detention, treatment, or rehabilitative institution.

(b) – (d) [Unchanged]

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From: Andrew Van Winkle <avanwinkle8@gmail.com>
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Good Evening,

Attached is my comment to Mr. Hill's proposals respecting CR 59 and GR 3.2.

Andrew Van Winkle