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Subject: FW: Comment on Proposed Changes to Criminal Court Rules
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From: Paul Grass <paul@sullivanpllc.com>
Sent: Thursday, April 25, 2024 11:54 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Changes to Criminal Court Rules

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Good morning,

I am in favor of the proposed changes to CrR and CrRLJ 4.7; CrR and CrRLJ 8.3; CrR and CrRLJ 3.2 as these changes would further serve to further the interests of justice by ensuring the accused is treated fairly, can assist their attorneys, and can avoid delays in justice at the hands of government mismanagement.

CrR(LJ) 4.7 provides the accused access to truly review the case against them. Often times the accused is only presented information against them in a lawyer's office during a short meeting. While the lawyers try their best to communicate the discovery and how it impacts their case, the accused does not always fully understand the accusations and evidence in a way that permits them to digest the information during the short meeting. Being able to provide redacted discovery would allow the accused to read it on their own, take notes, and perhaps locate important information to assist in their defense. The redactions provide safety and privacy for individuals in which those concerns would be appropriate.

CrR(LJ) 8.3 provides an opportunity to give defendants justice in circumstances where mismanagement is clear, unfairness is clear, but the judge feels they are bound to maintain a case because prejudice is not obvious. This issue arises regularly with government witness availability issues. Too frequently law enforcement officers are unavailable at the time of trial after the government has answered ready. The government's lawyers have the ability to communicate with their officers, the officers are paid (often overtime) to be available for trial, and the government should know before the morning of trial if their officers cannot attend, and the lack of attendance should be for good cause. Yet, trials are regularly continued on the morning of trial (usually within speedy) after the government's lawyers answered ready. While no specific prejudice arises because the trial is recalled within speedy, the accused has often taken on the expense of expert witnesses to appear, the cost of losing time from work, and legal fees created out of the delay. This is objectively unfair to the accused. Since delay alone within speedy is not specifically prejudicial judges

often do not dismiss a case even when the government grossly mismanages its resources. This is just one example of government mismanagement that is unfair to the accused with no consequence for the government. This change allows the judge to hold the government accountable for its case mismanagement when it is unfair to the accused but does not necessarily prejudice them in an enumerated way.

CrR(LJ) 3.2 would allow more individuals to be released from custody without giving away money to private bond agencies. An accused with limited resources when faced with bail faces a Hobson's choice of remaining in custody or giving away what might be their only funds. This choice may be easier if the accused knows that the money is not forever taken by a private entity, and they will receive it back at the end of their case. In general, bail has very limited use except to ensure poor people remain in custody. For those of wealth (roughly 7% of Washington's population are millionaires and we have more than 10 billionaires according to Yahoo Finance) are unphased by giving away 10% of a bond because they can generally afford it. However, for those earning closer to the state average income (roughly \$45000 annually) having to pay someone a fee to get out of jail may financially break them. Bail doesn't seem to be issued proportionally to a person's financial circumstances, which seems to give credence to the idea that wealthy individuals are more trustworthy, and the current system criminalizes poverty. This change will give more individuals the ability to get out of jail with a temporary hold on their funds instead of a permanent one.

I hope you will consider these changes and apply them to our current criminal rules.

Best,
Paul

Paul J. Grass, Esq.

Attorney | Sullivan Law Group, PLLC

2932 Hoyt Avenue, Everett, WA 98201

Tel: (425) 322-1076 - Fax: (425) 609-3760 – SMS 425-357-7960

paul@sullivanpllc.com



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