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Subject: FW: Support of Rule Changes to CrR/CrRLJ 8.3
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From: Aleksandrea Johnson <ajohnson@snocopda.org>
Sent: Monday, April 29, 2024 3:02 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Support of Rule Changes to CrR/CrRLJ 8.3

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Good afternoon –

I urge the Supreme Court to adopt the proposed rule changes for CrR and CrRLJ 8.3. In the last four years of my practice as a public defender, I have repeatedly seen injustice further perpetuated due to the bench's lack of discretion when confronted with an 8.3(b) motion to dismiss or suppress. I have repeatedly seen judges find that the government committed misconduct or mismanagement, but then say that the misconduct did not "materially affect the accused's right to a fair trial." The rule as written ties the court's hands in deterring governmental mismanagement misconduct and destroys the trust of those accused and the public that they will have a fair trial.

When the court is unable to step in when the government commits misconduct or mismanagement, it should have the discretion to dismiss or suppress. I experienced this first-hand when filing motions to suppress or dismiss in light of the Washington State Patrol Toxicology Lab's methamphetamine contamination. In Snohomish County, many of the district court judges found government mismanagement and that rights of the accused were materially affected. However, other judges did not find that rights were materially affected despite the fact that those with cases affected by contamination let to numerous continuances to investigate – constantly having to reckon with their rights to speedy trial. Even so, the Toxicology Lab to this day has not adequately cleaned or addressed methamphetamine contamination. There are still cases to this day litigating this issue. How are those being prosecuted for crimes, or the public for that matter, to trust the process when inherently unreliable evidence is allowed into their trial? They cannot.

This is not a non-sensical or unreasonable proposal. This proposal in fact would allow the court to deter governmental mismanagement and misconduct just like how the exclusionary rule in an article 1, section 7 motion to suppress effectuates. This change will allow the court to hold the government accountable when it commits discovery violations, delays competency restoration, and tries to admit unreliable evidence.

As this rule is written now, it does not allow the court to take action in the interest in justice. In order to preserve the integrity of the court and create a more just system, the court must adopt these rule changes to CrR/CrRLJ 8.3.

Thank you,

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