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Subject: FW: Comments regarding proposed rule changes re: CrR/CrRLJ 8.3
Date: Tuesday, April 30, 2024 3:38:36 PM

From: Andrew Yi <andrew.yi@piercecountywa.gov>
Sent: Tuesday, April 30, 2024 3:27 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments regarding proposed rule changes re: CrR/CrRLJ 8.3

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Good afternoon,

I am writing in opposition to the proposed rule change for CrR/CrRLJ 8.3(b), which would permit a trial court judge to dismiss a criminal case without any showing of prejudice. I concur with the concerns raised by numerous others, including Jennifer Joseph, Amy Meckling, Kristie Barham, Sara Beigh, Theodore Cropley, and Donna Wise, among others. The rule currently provides that a judge may dismiss a criminal prosecution due to arbitrary action or government misconduct if the court finds that action has materially prejudiced the defendant's right to a fair trial.

The proposed amendment would eliminate the requirement of prejudice, allowing dismissal solely on the court's disapproval of a decision of the executive. Allowing dismissal of entire criminal prosecutions based on "arbitrary action" would confer unlimited discretion on the trial court judge and would also not allow for meaningful appellate review of such a dismissal.

I fear that empowering judges to dismiss a criminal prosecution based on their own disagreement of prosecutorial decisions carries a high risk of disparate impacts and outcomes throughout the state. Further, the proposed amendment is inconsistent with the well-established principle that a defendant must show prejudice to establish a violation of his or her constitutional rights. Finally, I believe that the rule could potentially violate the principle of separation of powers by allowing the judiciary to dismiss a criminal prosecution based solely on disagreements with the executive.

I respectfully urge the committee to reject the proposed changes to CrR/CrRLJ 8.3(b). Thank you for your consideration.

Sincerely,

Andrew Y. Yi

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