

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Comment to Proposed Rule Changes
Date: Wednesday, May 1, 2024 9:51:04 AM

From: Britta Halverson <britta.halverson@piercecountywa.gov>
Sent: Wednesday, May 1, 2024 9:51 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: RE: Comment to Proposed Rule Changes

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Re: Proposed Amendments to CrR/CrRLJ 8.3:

I strongly oppose the proposed amendment to CrR/CrRLJ 8.3(b). It is well-established a defendant is "entitled to a fair trial but not a perfect one, for there are no perfect trials." In re Pers. Restraint of Elmore, 162 Wn.2d 236, 267, 172 P.3d 335 (2007). Yet the proposed amendment ignores this principle and removes the requirement that a trial court may dismiss a criminal prosecution due to arbitrary action or governmental misconduct only when "there has been prejudice to the rights of the accused which materially affect the accused's right to a fair trial." Under the proposed version of rule, the trial judge could dismiss any criminal case -- be it charges of murder, child rape, or serious assault -- due to any subjective finding of arbitrary action or government misconduct and for any reason the judge felt furthered justice, even when the defendant's right to a fair trial remains unaffected. Without the limiting guidance of prejudice, trial judges would be granted unfettered discretion to dismiss criminal cases based on disagreements over charging decisions, sentencing recommendations, and the like. This will result in inconsistent rulings and disparate outcomes throughout the state. Moreover, the proposed amendment raises serious separation of powers concerns and invites the judiciary to encroach upon the powers granted to prosecutors. The Court should reject the proposed amendments.

Respectfully,

Britta Halverson
Deputy Prosecuting Attorney
Appeals Unit
Pierce County Prosecutor's Office