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To: [Martinez, Jacquelynn](#)
Subject: FW: Comments on proposed rule changes 8.3, 3.2, 4.7, and 3.3
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From: Jenkins, Kelton <kejenkins@kingcounty.gov>
Sent: Tuesday, February 6, 2024 1:53 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments on proposed rule changes 8.3, 3.2, 4.7, and 3.3

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Good Afternoon,

I would like to note the following objections to the proposed rule changes:

Objection to CrR and CrRLJ 8.3: I object to this rule change because it could significantly undermine our justice system by leading courts to conclude that any decision made by a prosecutor was arbitrary, from charging decisions to sentencing recommendations. On that basis, the amendment would authorize dismissal of any or all charges or convictions. Furthermore, it could delay cases by allowing defense to question every decision made in a case with a contested hearing over even trivial matters. Additionally, the proposed amendment is justified by the claim that courts should be able to dismiss cases because of the “overrepresentation of black Americans in every stage of our criminal and juvenile justice systems.” This suggests that courts should dismiss entire categories of cases if a judge concludes that category of cases contributes to that overrepresentation. It is unclear how a judge could conclude that a particular case is a contributor to overrepresentation of Black persons in the criminal justice system.

Objection to CrR and CrRLJ 3.2: As to subsection (d)(6), the court is directed to set a bond amount “that will reasonably assure the safety of the community and prevent the defendant from intimidating witnesses or otherwise unlawfully interfering with the administration of justice.” This amendment mandates a reduction of that amount to 10 percent of the amount necessary to assure public safety.

Objection to CrR and CrRLJ 4.7: Under the proposed rule, defense counsel may provide a copy of discovery to the defendant before the State has an opportunity to address additional redactions that may be necessary.

Objection to CrRLJ 3.3: The time for trial should not be restarted without the defendant appearing in court. Even if a remote appearance could be considered, an appearance through counsel is effectively no appearance. The proposed rule requires the prosecution and the court

to restart the criminal proceedings in anticipation of trial when there is no assurance that the defendant ever will appear.

Best,

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