

April 29, 2024

Chief Justice Steven González
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Changes to CrR 8.3/CrRLJ 8.3

Dear Chief Justice González,

Only by adhering to the rule of law do prosecutors derive the authority to prosecute those who do not. It is not too high a demand to ask that they refrain from acting arbitrarily and engaging in governmental misconduct. I am disheartened by the response from prosecutors asserting this is too burdensome a request. Frankly, prosecutorial outcry over the proposed rule change clearly evidences the need for it.

As presently worded, this rule allows for all the arbitrary action and governmental misconduct that can be packed into this criminal punishment bureaucracy provided it does not do two things simultaneously: prejudice the rights of the accused and materially affect the accused's right to a fair trial. The right to a fair trial is one of many rights that prosecutors should avoid violating. This rule change honors that ideal.

The majority of accused persons never go to trial. More attention needs to be paid to how the prosecutorial machine grinds through humans on the way to trial. This rule change does just that.

Accused persons often belong to classes of people disfavored by government- e.g. persons of color, the poor, the marginalized, etc. The criminal legal system has done enormous harm to these communities. Allowing additional opportunity for judicial input ensures prosecutions serve the community and justice is done. This rule change would allow this.

Prosecutors wield the full weight and might of the government. If they are unable to accomplish their mandates without acting arbitrarily and committing governmental misconduct, then more needs to be addressed than just this rule. We need this rule change. I encourage you to adopt it.

Sincerely,

/s/ Kimberly S Sloan

Kimberly S Sloan
Public Defender
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