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April 29, 2024

Washington State Bar Association
ATTN: RULES COMMITTEE
1325 Fourth Ave., Suite 600
Seattle, WA 98101-2539

Re: *Proposed amendments to CrR 8.3 and CrRLJ 8.3*

To Whom it May Concern,

I am writing to express my concern and opposition to the proposed amendments to CrR 8.3 and CrRLJ 8.3. As currently written, the rule provides trial courts with discretion to dismiss charges when necessary to protect a defendant's ability to obtain a fair trial. The proposed rule diverts focus away from both concepts of due process and concepts of justice to provide discretion to dismiss charges simply in the 'furtherance of justice.' Judges therefore, could dismiss charges upon a finding of simple mismanagement based on their personal notion of what furthering justice looks like. Broadening CrR 8.3, CrRLJ 8.3 in this manner would likely lead to inconsistent application of the rule and disregards the interests of victims or the community in holding defendants accountable for criminal conduct.

The proposed rule would also allow judges to dismiss cases upon a finding of mismanagement of misconduct simply because they disagree with the prosecutor's charging decision or the penalty the defendant is facing. Giving trial judges such untethered authority to dismiss under these circumstances contravenes fundamental principles of the separation of powers. Dismissal of criminal charges should continue to be reserved for the most egregious cases when dismissal is necessary to preserve a defendant's right to obtain a fair trial.

This Court should reject the proposed rule change to CrR 8.3 and CrRLJ 8.3. I appreciate your time and consideration of my comments and request.

Best,



Kimberly Thulin
Senior Appellate Deputy Prosecutor