From:	OFFICE RECEPTIONIST, CLERK
To:	Martinez, Jacquelynn
Subject:	FW: Comments on proposed rule changes
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From: Schmidt, Ryan <rschmidt@kingcounty.gov>
Sent: Tuesday, April 9, 2024 10:15 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments on proposed rule changes

CrR and CrRLJ 8.3

The Courts should not be passive participants in the criminal justice system. However, this proposed rule change significantly oversteps constitutional separation of powers doctrine. "Government misconduct" has been broadly interpreted in Washington and the proposed rule change would give the Courts nearly unlimited power to dismiss cases for nearly any reason. In other states, judges have made decisions in criminal cases that are clearly based on the fact that the particular judge didn't agree with the charging decision or the punishment the legislature deemed appropriate for a criminal act. This proposed rule change would allow Washington trial courts to do the same thing. Courts should not have the authority by rule to substitute their judgment for that of the properly elected legislature or members of the executive branch, like prosecutors, who ultimately also need to answer to the voters.

I know from previous prosecutorial experience in other jurisdictions that crime victims in those other jurisdictions have significantly more constitutional rights than those afforded to crime victims in Washington. Practicing here I have seen firsthand how many crime victims and their families feel as though the criminal justice system is focused on the offender and that the victim is often marginalized, at best, and, at worst, forgotten. This rule would only serve to further deny crime victims access to the criminal justice system.

CrR and CrRLJ 3.2

Modifying this rule in the way advocated in this proposed rule change would significantly erode public confidence in the criminal justice system and community safety. If a defendant were only to have to post 10% of the amount without security for the remainder, is akin to the reason other

states have truth in sentencing laws. If all the public hears is the total bond amount, they will be left with a gross misperception that a dangerous offender will either be held in custody or, if able to post the bail, have significant incentive to abide by conditions of release and appear for future court dates. The Courts would be complicit in bolstering that misperception since under the proposed rule change defendants would only be responsible for 10% of the entire bail amount and would not be liable for the total amount even if they fled or violated their conditions of release. The Court's orders need to mean something, including its decisions on bail.

ARLJ 15

There should not be a rule that allows participants who are "required to physically appear" to appear remotely or through counsel. As indicated earlier, in my experience, many victims and/or families of victims already feel marginalized, at best, by the criminal justice system. That is only further exacerbated when offenders are allowed to not appear for court hearings. Adopting this rule will only further marginalize crime victims and their families. There are several circumstances under which personal appearance is important. While we did learn during COVID-19 that we could still provide access to the criminal justice system remotely, there are still circumstances where personal appearance is appropriate and necessary. Requiring an offender to personally appear under those circumstances does not require much of someone who has committed crimes. Adopting this rule will only further erode the public's confidence in, and perception of, the criminal justice system as catering to the offenders and not holding them accountable and requiring that they even appear in person for hearings.

CrRLJ 3.4

Defense counsel should be in regular communication with their clients. Full stop. Adopting a rule like this eliminating the need for counsel to provide assurance that they are communicating with their clients when the matter is stayed under RCW 10.77 makes no sense whatsoever. How is there an appearance through counsel if counsel has not been communicating with their client? How can counsel ethically participate in an appearance through counsel when they haven't even been communicating with their client? That is not an appearance through counsel, it is only an appearance of counsel. As with earlier proposed rule changes, adopting this proposed rule change would only further weaken public perception of, and confidence in, the criminal justice system.

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