

From: scott.jackson@lewiscountywa.gov

To: supreme@courts.wa.gov

Subject: [Rule Proposal Comment] Dismissal-Scott Jackson

I object to the proposed amendments to CrR 8.3 (b) and CrRLJ 8.3 (b), which delete a requirement that for a court to dismiss a criminal prosecution. As the rule is currently formulated, the Court must find that the defendant has been materially prejudiced due to any arbitrary action or government misconduct. The removal of this requirement fundamentally alters established case law and benefits only the defendant but does not promote justice.

The requirement that the defendant must show material prejudice by prosecutorial misconduct has been long established by caselaw. See, e.g. *State v. Thierry*, 190 Wn.App. 680, 689, 360 P.3d 940 (2015), *State v. Thorgerson*, 172 Wn.2d 438, 442-43, 258 P.3d 43 (2011). A defendant alleging that their attorney was ineffective must show that they was prejudiced. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). If the Court were to delete the “prejudice” prong would be contrary to decades of established caselaw and common sense. The goal of the criminal justice system is to be fair to all parties, including crime victims. Don't forget about the crime victim's and public sense of justice and fairness This amendment only serves to benefit a guilty defendant.