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April 11, 2025

VIA EMAIL

Honorable Mary I. Yu
Supreme Court Rules Committee
c/o Clerk of the Supreme Court
PO Box 40929
Olympia, WA 98504-0929

RE: Comments on Proposed Amendments to CrRLJ 8.3 – Dismissal

Dear Honorable Justice Mary Yu and Members of the Rules Committee:

The District and Municipal Court Judges' Association (DMCJA) respectfully opposes the suggested changes to CrRLJ 8.3 for the reasons discussed below:

The Association opposed the proposed change to CrRLJ 8.3 in 2024, and the reasoning for such opposition holds true again when evaluating the newest proposed changes.

The Proposed Rule Change is Not Necessary

Pursuant to GR 9(a)(4), the Supreme Court must ensure that a proposed rule is "necessary statewide" before it should be adopted. The proponents have failed to provide any evidence that the proposed amendment to CrRLJ 8.3 is necessary. The proponents continue to argue that a broader rule will prevent judges from rubber stamping the decisions of government agencies and that other states have a broader dismissal rule. The proponents fail to identify a statewide need for this rule change, or how this rule change will advance racial justice.

CrRLJ 8.3, as written, vests wide discretion in trial courts to dismiss prosecutions in the interests of justice. Requiring 'prejudice to the rights of the accused which materially affect the accused's right to a fair trial' in order to dismiss a case is an appropriate standard and counterbalance to the exercise of that broad discretion. Where no prejudice has resulted affecting the defendant, remedies short of

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dismissal may be appropriate. See, CrRLJ 4.7(g)(7). The required showing of prejudice creates a statewide standard, and this standard reduces the risk that individual judges in different jurisdictions will apply the rule extremely differently to similarly-situated defendants.

Proponents have added broadly worded factors in addition to ‘any other information the court believes relevant’ for the Court to consider as a way to guide courts to uniformly apply the proposed rule. These factors will not only further limit a trial court’s discretion compared to the current language of CrRLJ 8.3, but will greatly increase the risk of inconsistent standards and invite disparate application among jurisdictions and even judges within the same court as it provides more room for individual interpretation of the standard. This proposed change could also encourage inappropriate forum shopping.

State v. Starrish Does Not Support a Change in CrRLJ 8.3

Proponents’ continued reliance on *State v. Starrish*, 86 Wn. 2d 200 (1975) is misplaced. At the time of the *Starrish* decision, the relevant portions of CrR 8.3 read as follows:

The court on its motion in the furtherance of justice, after notice and hearing, may dismiss any criminal prosecution and shall set forth its reasons in a written order.

The CrR 8.3 language requiring a showing of prejudice was added to the rule in 1995, well after *Starrish* was decided. Justice Utter’s dissent was not advocating for a broader rule in *Starrish*, he was applying the rule as it existed at the time, and arguing for a different result than that adopted by the majority. The holding in *Starrish* does not support a change to CrRLJ 8.3.

The Supreme Court amended CrR 8.3 to include a prejudice standard and adopted CrRLJ 8.3 with the prejudice standard to provide balance to trial courts’ broad discretion. If one is to consider Justice Utter’s words in his dissent as a call to make CrRLJ 8.3 and the power of the trial court to dismiss “as broad and flexible as the principles of justice to which it refers...” as the proponents suggest, the Supreme Court answered the call and included the prejudice standard in 1995. *State v. Starrish*, 86 Wn.2d 200, 214, 544 P.2d (1975). Proponents do not demonstrate that rescinding the prior changes to Rule 8.3 is necessary, or even appropriate.

In sum, the DMCJA urges you to reject the proposed amendments to CrRLJ 8.3.

Thank you for your consideration.

Sincerely,



Judge Karl Williams, DMCJA President

Supreme Court Rules Committee

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CC: Judge Catherine McDowall, DMCJA Rules Committee Co-Chair
Judge Wade Samuelson, DMCJA Rules Committee Co-Chair
Stephanie Oyler, DMCJA Primary Staff
Evan Walker, MPA, MJur, DMCJA Rules Committee Staff

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Farino, Amber](#)
Subject: FW: DMCJA Comments in Opposition of Proposed Amendments to CrRLJ 3.2 and 8.3
Date: Thursday, April 17, 2025 9:23:58 AM
Attachments: [DMCJA Comments in Opposition of Proposed Amendments to CrRLJ 3.2 04112025.pdf](#)
[DMCJA Comments in Opposition of Proposed Amendments to CrRLJ 8.3 04112025.pdf](#)
[image001.png](#)

From: Walker, Evan <Evan.Walker@courts.wa.gov>
Sent: Friday, April 11, 2025 4:59 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Karl Williams <karl.williams@piercecountywa.gov>; McDowall, Catherine <Catherine.McDowall@seattle.gov>; Wade Samuelson <Wade.Samuelson@lewiscountywa.gov>; Oyler, Stephanie <Stephanie.oyler@courts.wa.gov>
Subject: DMCJA Comments in Opposition of Proposed Amendments to CrRLJ 3.2 and 8.3

Greetings,

Please see attached comments in opposition of proposed amendments to CrRLJ 3.2 and 8.3, sent on behalf of DMCJA President Judge Karl Williams, and DMCJA Rules Committee Co-Chairs Judge Catherine McDowall and Judge Wade Samuelson.

Thank you,

Evan Walker, MPA, MJur (they/them)

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