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Subject: FW: CrR/CrRLJ 8.3 - Comment OPPOSING adoption of rule change.
Date: Monday, April 28, 2025 10:33:34 AM

From: Rogers, Ethan <Ethan.Rogers@kingcounty.gov>
Sent: Monday, April 28, 2025 10:16 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: CrR/CrRLJ 8.3 - Comment OPPOSING adoption of rule change.

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Greetings. I am a Senior Deputy Prosecuting Attorney with the King County Prosecuting Attorney's Office. I have been with the KCPAO for over 33 years, including about 12 years in the Criminal Division.

I oppose the proposed change to CrR/CrRLJ 8.3.

This propose change will hurt the perception of the judiciary and will lead to injustice. Right now, one of the biggest complaints the public has about the criminal justice system is when a case is dismissed "on a technicality." This is a very common trope in movie and TV shows, as well as used by the news media on occasion. Any good lawyer, including prosecutors, will grit their teeth when they hear that phrase, because they know what others call a "technicality" is really a severe breach of the defendant's rights, to the extent that to proceed with a criminal trial would be an injustice. That line to injustice is crossed when "there has been prejudice to the rights of the accused which materially affect the accused's right to a fair trial."

The proposed change removes that line. Dismissals will occur when the defendant's right to fair trial has not been affected. When that is the situation, cases will be dismissed on true technicalities. This will hurt the perception of the judiciary, and appropriately so (unfortunately). **Perhaps worse, dismissals may not occur despite specific impact to a fair trial because the court finds the offense serious enough that dismissal is not warranted (factor 1) or they do not want to be perceived as having dismissed a case "on a technicality" (factor 3), even when the breach is significant.** This will lead to injustice.

For the impact this change will have, both when cases are dismissed and when they are not dismissed, please do not adopt this change.

Sincerely,
Ethan Rogers
Senior Deputy Prosecuting Attorney

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