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Subject: FW: comment on proposed amendment to CrR 8.3
Date: Friday, January 24, 2025 11:14:20 AM

From: Colin Hayes <Colin.Hayes@clark.wa.gov>
Sent: Friday, January 24, 2025 11:13 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: comment on proposed amendment to CrR 8.3

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Hello. Please note these comments:

Re: proposed amendment to CrR 8.3 (and CrRLJ 8.3): This proposal should be rejected.

First, it is not necessary. The proponents fail to identify any particular problem under the current rule that calls for this “fix.” Second, it could lead to disparate outcomes in different jurisdictions based on similar facts. Third, allowing for dismissal without a showing of prejudice will lead to reduced public confidence in the justice system. Including a consideration of reduced public confidence as a factor is not enough to abate this problem.

Fourth, this proposal goes against the concept that judges should not dismiss a case based on “personal and private notions” of fairness:

[T]he due process clause does not permit a court to abort criminal prosecution simply because it disagrees with a prosecutor's judgment. The court's role is not to define due process in line with “personal and private notions” of fairness but rather to determine whether the State's conduct violates “fundamental conceptions of justice which lie at the base of our civil and political institutions.”

State v. Moen, 150 Wn.2d 221, 226, 76 P.3d 721 (2003) (citations omitted).

Regards,

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