

April 29, 2025

Washington Supreme Court  
P.O. Box 40929  
Olympia, WA 98504

**Re: Proposed Amendment of RAP 10.2**

Dear Justices:

The Washington Appellate Project supports the effort to eliminate the disparities in the time for filing briefs in RAP 10.2.

As the proponent's cover sheet suggests, the time required to "draft an opening brief from a bare record" is longer than the time required to respond. And the current provisions of RAP 10.2 reflect that; providing the appellant 45 days to file the opening brief and then 30 days for the brief of respondent.

But in criminal cases, appellants are afforded *less* time than the respondent to file their initial brief. The disparity in the timelines in criminal appeals escapes explanation. It is no less true that drafting the opening brief in a criminal case from a bare record requires more time than drafting a response brief. To the extent there is a basis for different timelines, logic and experience suggests the current rule has it backwards.

At a minimum, the time to file an opening brief in criminal matters should be no less than the time provided to file a response brief. The proposed amendment accomplishes at least that.

But we urge the Court to consider more. Just as in civil cases, the time to file the opening brief in a criminal case should be longer than the time to respond.

Under the proposed amendment, appellants in civil cases will be afforded twice as much time as the respondent. Yet appellants in criminal case will have only the same amount of time as the respondent. Criminal cases disproportionately involve Black, Asian, Indigenous, and Latinx appellants. Appellants in criminal cases are disproportionately poor. They are often incarcerated and communication with them is

time consuming. There is no justification for treating these appellants differently, relative to their opponent, than civil appellants. If appellants in civil appeals are to be afforded twice the time to file their initial brief than afforded the respondent, the same should be true in criminal appeals.

The present disparity in filing deadlines, and the potential disparities that remain even with adoption of the change, exist because of the long-ago decision to treat respondents in criminal case, typically the prosecution, differently than respondents in civil cases with adoption of RAP 10.2(c). Eliminating that provision would resolve all this.

Alternatively, setting the time for filing the opening brief in criminal matters appeals at twice the time afforded respondents, just as in civil matters, ensures appellants in criminal cases are treated the same as appellants in civil appeals.

Again, the Washington Appellate Project supports the effort to eliminate the disparities in the time for filing briefs in RAP 10.2. In that effort, we ask the Court to consider our suggestions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gregory C. Link", written in a cursive style.

Gregory C. Link, Director  
Attorney At Law

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[Wash. App. Proj. Comment CrR 3.1, CrRLJ 3.1, JuCR 9.2 \(appeals\).pdf](#)  
[Wash. App. Proj. Comment GR 14.pdf](#)  
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Please find attached the Washington Appellate Project's comments on the following proposed rule changes:

CrR 3.1/CrRLJ 3.1/JuCR 9.2 Standards for Indigent Defense(appellate)  
GR 14  
RAP 10.2  
RAP 18.17



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