

**SPOKANE COUNTY DISTRICT COURT  
STATE OF WASHINGTON**

IN THE MATTER OF “REMOTE APPEARANCES  
FOR THE SPOKANE COUNTY DISTRICT  
COURT”

ADMINISTRATIVE ORDER

NO. 2022 – 1: REMOTE APPEARANCES

This matter comes before the Court as the Washington State Court Rules for Courts of Limited Jurisdictions will be changing September 1<sup>st</sup>, 2022:

- As of September 1<sup>st</sup>, 2022, CrRLJ 3.4 will be updated with new language related to a defendant’s “physical appearance.”
- The updated rule requires the defendant’s “physical appearance” at arraignments, every stage of the trial including empaneling of the jury, returning the verdict, imposing the sentence and at hearings set by the Court upon a finding of good cause.
- “Physical appearance” is defined as the “defendant’s physical presence.” See, CrRLJ 3.4 (c), CrRLJ 3.4(b)(1) and CrRLJ 3.3(a).
- The updated rule also allows that the required “physical presence” of the defendant may be “excused or excluded by the Court for good cause shown.” See, CrRLJ 3.4(c).
- On August 31<sup>st</sup>, 2022, the Washington State District and Municipal Court Judges’ Association sent an email to all District and Municipal Court Judges on behalf of the DMCJA Rules Committee Co-Chairs, Judge McDowall and Judge Samuelson stating the following:

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- Late last week, it was brought to the Rules Committee’s attention that there is significant concern among our members about the enactment of the new CrRLJ 3.4 provisions related to requiring physical appearance, which are scheduled to take effect September 1, 2022.
- The intent of the Rules Committee was to clarify the rules related to when and how defendants may appear in court, when they must appear personally (rather than through counsel) and whether courts can issue warrants if a defendant fails to appear.
- When the Rules Committee proposed amendments to prior section (b) (now section (c)), we recommended deleting “or remotely (in the court’s discretion)” from this rule. The Committee believes that the language at the end of the section -- “except as otherwise provided by these rules or as excused or excluded by the court for good cause shown” -- *sufficiently authorizes courts to allow remote appearance if that is the court’s preference.* (Emphasis added).
- Despite this confusion, the Supreme Court’s Emergency Orders clearly authorize remote proceedings for many (any) types of hearings. Paragraph 8 of the Fifth Revised and Extended Order (<https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/25700-B-658.pdf>) reads: “Courts should continue to hear **out of custody** criminal and juvenile offender matters by telephone, video or other means that do not require in person attendance when appropriate.” Paragraph 10 similarly provides: “Courts should continue to hear **in custody** criminal and juvenile offender matters by telephone, video or other means that do not require in person attendance when appropriate.” There is no immediate sign that the Supreme Court intends to rescind these orders. Therefore, there is no immediate need to delay implementation of the new CrRLJ 3.4.
- The Rules Committee intends to propose a “technical amendment” to the rule to clear up this confusion. As a technical amendment, we hope that it may be enacted without a public comment period and therefore would go into effect rather quickly. We intend to reinstate the “or remote” language in some form, and likely will propose reinstating the sections related to videoconference proceedings

in their entirety until we can propose a general rule that would govern video proceedings in all hearings (even civil proceedings).

- As of August 31<sup>st</sup>, 2022, COVID is still a public health issue affecting local and national communities.
- As of August 31<sup>st</sup>, 2022, the Washington State Supreme Court's Fifth Revised and Extended Order which authorizes the use of "video or other means that do not require the person's attendance when appropriate" is still in effect.
- As of August 31<sup>st</sup>, 2022, the Spokane County District Court has found the use of "remote appearances" to encourage court appearance, thereby reducing failure to appear rates.
- As of August 31<sup>st</sup>, 2022, the Spokane County District Court has held in-custody 1<sup>ST</sup> Appearances via videoconference to reduce the need for jail transport to bring inmates to the Courtroom benefiting judicial efficiency and security issues.

IT IS HEREBY ORDERED that pursuant to the authority of Washington State Supreme Court's Fifth Revised and Extended Order and the authority as Presiding Judge of the Spokane County District Court the following shall be in effect commencing Thursday, September 1<sup>st</sup>, 2022.

1. The Court finds good cause to allow for "remote appearances" for all dockets unless the person's "physical presence" is specifically required by the assigned Judicial Officer and except in the following circumstances:
  - A. Criminal DUI and Domestic Violence First Appearances the defendant must be physically present unless authorized by the assigned Judicial Officer.
  - B. Every stage of the trial including empaneling of the jury and returning the verdict. "Remote appearance" for every stage of the trial including empaneling of the jury and returning the verdict requires the agreement of the Parties and the agreement of the assigned Judicial Officer.

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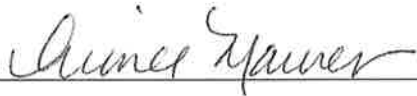
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2. All courthouse locations will remain open. This order may be modified consistent with the Spokane County District Court's continual assessment of the needs of the community, the recommendation of public health officials, the recommendation of the DMCJA, and the DMCJA Rules Committee.

DATED this 31<sup>st</sup> day of August, 2022



Presiding Judge Aimee Maurer