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COUNTY CLERK

2020 JUN -3 P 1:45

WHATCOM COUNTY
WASHINGTON

IN THE SUPERIOR COURT OF WASHINGTON
FOR THE COUNTY OF WHATCOM BY _____

CASE No. 20-2-00001-37

IN THE MATTER OF RESPONSE TO PUBLIC
HEALTH RISK DUE TO COVID-19 PUBLIC
HEALTH EMERGENCY

) NINTH ADMINISTRATIVE
) ORDER
) (amending EIGHTH
) ADMINISTRATIVE ORDER)

THE COURT ISSUES THIS ORDER amending Paragraph 3 (b) of the Eighth Administrative Order issued on May 29, 2020. THIS ORDER is issued for all the reasons specified in the Court's prior Administrative Orders beginning March 16, 2020.

Paragraph 3 (b) of the Eighth Administrative Order is hereby amended to require that the defendant shall be present at preliminary appearance and arraignment unless excused or excluded by the court for good cause shown pursuant to CrR 3.4 (a), or unless the defendant appears via video conferencing as allowed by CrR 3.4 (d). Defendants may not waive personal appearance at arraignment as provided for in the Eighth Administrative Order.

For reference, CrR 3.4 (d) is copied here:

“(d) Video Conference Proceedings. (1) Authorization. Preliminary appearances held pursuant to CrR 3.2.1, arraignments held pursuant to this rule and CrR 4.1, bail hearings held pursuant to CrR 3.2, and trial settings held pursuant to CrR 3.3, may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Any party may request an inperson hearing, which may in the trial court judge's discretion be granted.

(2) Agreement. Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as provided for by CrR 4.2 may be conducted by video conference only by agreement of the parties, either in writing or on the record, and upon the approval of the trial court judge pursuant to local court rule.

(3) Standards for Video Conference Proceedings. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. The video and audio should be of sufficient quality to ensure participants are easily seen and understood. Video conference facilities must provide for confidential communications between attorney and client, including a means during the hearing for the attorney and the client to read and review all documents executed therein, and security sufficient to protect the safety of all participants and observers. For purposes of videoconference proceedings, the electronic or facsimile signatures of the defendant, counsel, interested parties, and the court shall be treated as if they were original signatures. This includes all orders on judgment and sentence, no contact orders, statements of defendant on pleas of guilty, and other documents or pleadings as the court shall determine are appropriate or necessary. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants."

The Court will make video conferencing available for all preliminary appearances and arraignments and will publish the link on the calendar distributed prior to court. If a defendant wishes to appear via video, defendant or their counsel must email that request to SCCrRemote@co.whatcom.wa.us by noon the day before the scheduled hearing. All participants must comply with the requirements of CrR 3.4 (d)(above). In order to reduce the number of people in the courtroom, attorneys and others are also strongly encouraged to participate or observe, if feasible, by video conferencing, using the link published on the calendar.

Nothing else in the Eighth Administrative Order, or other previous Administrative Orders of this Court, is affected by this order.

DATED this 3rd day of June, 2020.



Presiding Judge
Whatcom County Superior Court