

WSR 24-01-053
RULES OF COURT
STATE SUPREME COURT
[December 7, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1560
RAP 10.10—STATEMENT OF)
ADDITIONAL GROUNDS FOR)
REVIEW)

The Appellate Court Clerks and the Washington State Office of Public Defense, having recommended the suggested amendments to RAP 10.10—Statement of Additional Grounds for Review, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2024.

(b) The purpose statement as required by GR 9(e) is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2024. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of December, 2023.

For the Court

Gonzalez, C.J.

CHIEF JUSTICE

GR 9 Cover Sheet

Name of Proponent: Appellate Court Clerks and Office of Public Defense (Derek Byrnes, Lea Ennis, Erin L. Lennon, Gideon Newmark, Sarah Pendleton, Tristen Worthen,)

Spokesperson: Erin Lennon, Washington State Supreme Court Clerk

Purpose: This rule amendment would clarify the deadline for a criminal defendant to file a statement of additional grounds for review. It would also clarify that the criminal defense attorney is responsible for notifying their client of their right to file the statement.

As background, Rule of Appellate Procedure (RAP) 10.10 allows a criminal defendant to file "a pro se statement of additional grounds for review to identify and discuss those matters related to the decision under review that the defendant believes have not been adequately addressed by the brief filed by the defendant's counsel." The rule used to set the deadline for filing as "30 days after service upon the defendant of the brief prepared by defendant's counsel and the mailing of a notice from the clerk of the appellate court advising the defendant to the substance of the rule." Last year, the Court adopted a change to the rule that shifted responsibility for notifying the de-

fendant to the attorney based on the idea that the courts should not be involved in the attorney-client relationship. This proposed rule amendment completes that shift of responsibility to the defense attorney, streamlines the communication between the defense attorney and client, and provides a clearer deadline to the parties and to the courts.

This proposal is supported by all the appellate court clerks and Gideon Newmark of the Office of Public Defense, the sponsor of last year's amendment to RAP 10.10.

Hearing: The proponent does not believe a public hearing is necessary.

Expedited Consideration: The proponent does not believe that expedited consideration is necessary.

RAP 10.10

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

(a)-(c) [unchanged.]

(d) Time for Filing. The statement of additional grounds for review should be filed within 35 days after the filing of the brief filed by the defendant's counsel. The defendant's counsel is responsible for promptly advising the defendant of the substance of this rule when they provide the defendant a copy of the brief being filed by counsel. ~~mailing of a notice from the clerk of the appellate court advising the defendant of the substance of this rule. If the defendant is represented by counsel, the clerk will mail the notice to the defendant's counsel, who should promptly forward the notice to the defendant with a copy of the opening brief.~~ The clerk will advise all parties if the defendant files a statement of additional grounds for review.

(e)-(f) [unchanged.]