

# Nobel Award from The Consider Podcast

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Awarding the Washington State Supreme Court for Criminal Rule 8.3.b

The Washington State Supreme Court issued power for Washington State judges to dismiss criminal charges.

The Washington State Supreme Court merits recognition for its decision on Criminal Rule 8.3.b.

It's understandable that prosecutors of Washington State are resistant to having their dirty diaper changed, but I would prefer to focus on the significance of this ruling at this time.

It should be noted this rule does not address the issues of corruption involving Judge Beth M. Andrus, who has shielded Detective Grant McCall from scrutiny, nor does it confront the show trial chock full of Right Rape in proceedings overseen by Judge Lori K. Smith in the prosecutor's successful attempt to take down a righteous Christian church by using an accused crime that was both impossible and by their own acknowledgment they had zero evidence to present to a jury. See WA. State v. Malcolm Fraser evidence located at [www.consider.info](http://www.consider.info), or [www.enumclaw.com](http://www.enumclaw.com)

Rule 8.3b will be commendable only if the judges maintain truth and integrity. Only judges of high integrity can benefit Washington State by restraining the current excessively uncontrolled prosecutors and their police that are destroying justice at a rampant level. This is one reason prosecutors of Washington State refer to jury selection as their "dog and pony show."

The following is a commissioned analysis of Criminal Rule 8.3.b. issued by the Washington State Supreme Court.

Invalidating Unjust Prosecutions: Some Positive Consequences in Washington State Criminal Law

Whether you reside in Washington or another state in our country, you can typically rely on a wide range of rules and principles when facing a criminal trial. From hearing the actual charges levied against you to being judged in front of a jury of your peers, there are certain tenets that all of us hold dear (even if we don't think about them that often).

At the same time, certain judicial decisions can change many of the norms and principles that we hold so dear. Because these decisions are being made by the highest courts, they are binding on all of us within the court's jurisdiction.

So how is this relevant to the state of Washington? Several days ago, the Supreme Court of Washington issued a decision that makes a key change to [Washington State Criminal Rule 8.3\(b\)](#).

Ultimately, the decision gives judges the authority to dismiss criminal charges that they believe are unjust.

On the surface, it seems like this decision is the perfect example of judicial overreach. Giving judges the power to throw out criminal charges that they *personally* deem “unjust” could be seen as unjustified power in the hands of one individual.

That being said, I would take the opposite side of this debate. This decision, even though it seems broad on the surface, gives an extremely important power to judges. That power? Reining in rogue prosecutors who are seeking to prosecute cases that shouldn't be tried.

## **The Rule Change**

This specific rule change wasn't made in a vacuum. It was in response to a rule that was supported by public defense offices (which included those in King and Snohomish counties). Those public defense offices supported the proposed adoption of amendments to Rule 8.3(b).

But let's back up. What exactly is Rule 8.3(b)?

[Rule 8.3\(b\)](#) is a provision that outlines certain scenarios that allow for the dismissal of criminal indictments, information, or complaints. Those dismissals can occur on motion by the prosecution, defense, or court.

The court's ability to dismiss is the relevant power here. Before the amendment, the language provided for a court to dismiss the criminal prosecution “due to arbitrary action or governmental misconduct when there has been prejudice to the rights of the accused which materially affect the accused's right to a fair trial.” As you can see, the rule is there to give the court some flexibility *if there is a material fact that affects the ability to gain a fair trial*.

That ability to get a fair trial is the important language here. In the amendment, the Washington Supreme Court completely eliminated the language that states “which materially affect the accused's right to a fair trial.” Along with that, the Court said the following:

“In deciding whether to dismiss, the court shall consider the following factors in addition to any other information the court believes is relevant to the inquiry:

1. the seriousness and circumstances of the offense;
2. the impact of a dismissal or lack of dismissal on the safety or welfare of the community (the defendant is part of the community);
3. the impact of a dismissal or lack of dismissal upon the confidence of the public in the criminal justice system;
4. the degree and impact of the arbitrary action or governmental misconduct.

As you can see, the Washington Supreme Court gave Washington judges immensely more discretion in deciding whether or not to dismiss criminal charges. Instead of just looking at whether the accused's right to a fair trial is materially affected, the court can consider factors like the public's confidence in the judicial system and how a dismissal (or lack of dismissal) will affect a community's safety or welfare.

Ultimately, this amended Rule 8.3(b) goes into effect on September 1, 2025. The rule effectively overturns a seminal case called *State v. Starrish*. *Starrish* played a role in limiting judicial discretion when dismissing criminal charges.

Even more significant is the fact that the Washington state legislature considered a proposal that would let judges reduce sentencing based on their personal beliefs of fairness. That proposal was never enacted into law, which raises red flags in the eyes of critics of this new rule change.

### **The Positive Side of a Significant Rule Change**

There is already public outcry about how this rule change will empower criminal judges throughout the state of Washington. Already, we are hearing talk about how "activist judges" will essentially let a criminal run free if they believe that the criminal needs "a break." The potential is there for judges to succumb to the pressure of public opinion, for instance, even if dismissing specific criminal charges will do more harm to community safety in the long run.

These criticisms aren't meritless. Judges will now have more power to let criminals "off easy" and to let public opinion and discourse sway their decisions. At the same time, critics seem to overlook a positive consequence of this new rule change.

Just think about a situation like this: a rogue prosecutor decides to bring criminal charges against a specific community leader. That community leader was in the wrong place at the wrong time. That community leader is a member of some political party and the prosecutor is a member of the opposing political party.

On the surface, those charges seem frivolous. It was just an unfortunate series of events that led the community leader to be in a situation where criminal activity took place. Nevertheless, the prosecutor decided to bring criminal charges against that individual—even if the charges don't have much evidence behind them.

In that type of situation, this amended Rule 8.3(b) may be beneficial. The judge overseeing the criminal case would have the discretion to drop the charges entirely. That judge would have discretion under all four of the circumstances outlined by the amendment. Whether it was due to the impact on the community, impact on the public's confidence in the criminal justice system, or something else, that judge would be well justified to act.

Or there could be a situation where prosecutors were too shoddy in their work. Let's say that there is a manhunt for a serial killer in Washington. The police arrest a suspect, but the evidence linking that suspect to the killings is extremely thin. Further complicating the matter is whether the public and/or media were looking to blame the killings on *someone*. If the government's actions were so shoddy and sloppy, a judge could act to drop the charges. In that specific scenario, that judge could be saving a falsely accused defendant from significant prison time.

## **Balancing the Merits**

Like many debates over criminal law, there are two camps at odds here. On one side, you have the "law and order" camp. That camp is rightly concerned about letting hardened criminals go free. Yet in this specific debate, they are overly focused on that cost rather than "justice with order." In other words, they underweight the very real scenario of a rogue prosecutor unjustly pursuing a criminal action against an innocent person.

Ultimately, I encourage Washington citizens to focus on the positive aspects of this rule change. There are very real scenarios where innocent people have their lives destroyed because of rogue prosecutors pursuing their own agendas. This rule change goes a long way in preventing these types of situations from happening. Not only can the judge make that decision when a criminal case is in front of them, but the rule change creates a deterrent effect. In effect, prosecutors should be less willing to bring cases that lack merit.

But in the end, this entire discussion relies on one group: the judges. The amended Rule 8.3(b) assumes that judges will be honorable and will act according to their better angels. This is a key assumption and one that we can't take for granted.

On one side, there may be situations where judges properly use the new 8.3(b) to protect innocent individuals. However, there may be *other* situations where these judges abuse 8.3(b) and let hardened criminals walk free.

So what can we, as members of the public, do? For one thing, judges are elected. It's critical to vote in every election, but especially so now that judges have this expanded power. If there comes a time when a judge is abusing their power under this rule, Washington citizens can vote them out.

Beyond elections, members of the public need to be vigilant. If we see a judge not following the letter of this new rule, we must make our voices known. We can peacefully protest, for instance. While there isn't much we can do to convince the judge to make actual decisions, we can remind the judge that we are paying attention.

Yes, the judges have the power here. But we aren't powerless. Through this patchwork of solutions, we can do our part. We can balance both sides of this debate and help make Washington safer and more just.

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The prosecution of Malcolm Fraser, Defendant, Case No. 12-1-01886-0 KNT, was never about justice—it was about executing a premeditated attack on a religious community through abusive legal manipulation. Enumclaw Detective Grant McCall, King County Prosecutors, and Judge Lori K Smith used an impossible-to-commit crime by Malcolm Fraser to frame a show trial to destroy Sound Doctrine Church or Timothy Williams. The organized hate crime allowed Washington State's anti-Christian mindset to demolish the rule of law as criminal activities went into full power-play mode. The evidence is overwhelming; an innocent man sits in prison while a corrupt cop is free and promoted! City of Enumclaw Detective Grant McCall corruptions have long been protected by the City of Enumclaw. Washington State Supreme Court committing right rape, King County Prosecutor: Prosecutor Mark Larson, Prosecutor Lisa Johnson, Prosecutor Nicole Weston, Prosecutor Rich Anderson and Prosecutor Jason Simmons. Judge Beth M. Andrus, Judge Lori K. Smith, Prosecutor Leesa Manion, Korean Prosecutors Association 556 S. Fair Oaks Ave., Suite 352 Pasadena, California 91105 provided Prosecutor Leesa Manion with an award for being a Korean woman. The Washington State Court of Appeals, without any investigation, denied the appeal and whitewashed the crimes of Enumclaw Detective Grant McCall.