

THE DIFFERENCE BETWEEN 3.6 MOTIONS AND MOTIONS IN LIMINE

3.6 Motion To Suppress Evidence

Under CrRLJ 3.6, the defense may move to suppress evidence:
A defendant may move to suppress evidence under CrRLJ 3.6; CrR 3.6. All 3.6 motions must contain “an affidavit or document setting forth the facts the moving party anticipates will be elicited at a hearing, and a memorandum of authorities in support of the motion.” CrRLJ 3.6(a).

A court will suppress, as opposed to exclude, evidence when the government improperly obtained that evidence. Black’s Law Dictionary defines “suppression of evidence” as “[a] trial judge’s ruling that evidence that a party has offered should be excluded because it was illegally acquired.” Black’s Law Dictionary, Seventh Edition (1999), p. 1454.

A defendant must file a motion to suppress evidence prior to trial. The Washington Supreme Court has explained why a defendant must make a timely motion to suppress illegally obtained evidence. State v. Robbins, 37 Wn.2d 431, 432 (1950). Requiring a defendant to move to suppress illegally seized evidence before trial allows the trial court the necessary time to resolve disputed issues of fact regarding how the government obtained the evidence. Id. at 432-33. See also State v. Duckett, 73 Wn.2d 692, 694-95 (1968) (defendant must make suppression motion “within a reasonable time before the case is called for trial” unless defendant could not have learned of unlawful seizure earlier); State v. Coleman, 2 Wn.App. 982, 984 (1970) (defendant must “seasonably object” to unreasonable search or seizure).

Motion in Limine to Exclude Evidence

Unlike a motion to suppress evidence under CrRLJ 3.6, a motion in limine is a motion to exclude evidence that is highly prejudicial or inadmissible for some reason other than an illegal search or seizure. The court should grant a motion in limine if it is sufficiently specific and describes highly prejudicial evidence:

[W]e set forth the rules governing trial court consideration of motions in limine: [T]he trial court should grant such a motion if it describes the evidence which is sought to be excluded with sufficient specificity to enable the trial court to determine that it is clearly inadmissible under the issues as drawn or which may develop during the trial, and if the evidence is so prejudicial in its nature that the moving party should be spared the necessity of calling attention to it by objecting when it is offered during the trial.

Kelly, 102 Wn.2d 188, 192 (1984).