

STATE OF MINNESOTA

IN SUPREME COURT

C6-90-649

Interactive Audio-Video Communications
Experiment in First Judicial District -
Mental illness Commitment Proceedings

O R D E R

WHEREAS, the Bench of the First Judicial District has requested to participate in, on an experimental basis, the use of interactive audio-video communications for the proposes of conducting mental illness commitment proceedings in appropriate cases; and

WHEREAS, the costs of installing said audio-visual communications equipment can be provided within the current judicial budget; and

WHEREAS, it may be useful to consider alternative hearing methods where extensive transportation time and expense is otherwise incurred by either the patient involved, who is transported each way by the sheriff's department, or Court personnel,

NOW, THEREFORE, IT IS ORDERED:

1. The First Judicial district is authorized to conduct an experimental program for a period of two years in a designated audio-video room located in the Sibley County Courthouse, Gaylord, Minnesota, using audio-video communications to receive the testimony of the physician, patient, or other witness who may be physically located at the appropriate Regional Treatment Center.

2. The use of interactive audio-video communications in this experiment is excepted from the provisions of Canon 3A(7) of the Minnesota Code of Judicial Conduct.

IT IS FURTHER ORDERED that the following guidelines will apply to this experimental program:

1. Transmission: The transmission path from the Sibley County courthouse to the Regional Treatment Center shall be secured against electronic eaves-dropping.

2. Record: This experiment will not affect the official record of the Court proceedings. The Court proceedings will be recorded by the court reporter in the customary manner.

3. Video Tape Record: A video tape recording shall be made of each hearing conducted under these rules for the purpose of assisting the evaluation of the program herein. At the completion of the evaluation period, and 90 days after the submission of the final report of this experiment, said video tapes shall be destroyed. Such video tape records shall not be available to any person without an Order of the District Court.

4. Conduct of Hearing:

A) The following language shall be included in the Notice of Commitment Hearing, whether that Notice be in a Summons or Order for Apprehension and Confinement:

THIS HEARING WILL BE CONDUCTED BY INTERACTIVE VIDEO TELECONFERENCE. YOU HAVE THE RIGHT TO OBJECT TO THE USE OF VIDEO TELECONFERENCE HEARING, BUT YOU MUST DO SO AT LEAST 24 HOURS IN ADVANCE OF THE HEARING, EXCLUDING WEEKENDS OR HOLIDAYS.

B) At the commencement of the proceedings, the judge will ensure that contact is made with the persons located at the RTC. No persons shall be allowed in the room at the RTC who would not be permitted to attend the hearing had it been held in the Courtroom.

C) the audio-video link between the RTC and the Sibley County Courthouse shall be maintained from the commencement of the hearing until it is terminated by the judge.

D) the equipment shall allow the parties at either location to hear objections and testimony from the other location. The usual rules of evidence and procedure shall control the conduct of such a hearing.

E) an attorney may request the Court permission to turn off the audio or leave the conference table in order to communicate with his client in private, so as to preserve the confidentiality of attorney-client communications during the interactive audio-video hearing.

F) a respondent may object to the use of audio-video communication for the conducting of any such hearing during the two-year experiment. The objection shall be made at least 24 hours in advance of the hearing, excluding weekends or holidays. Argument on the motion may be by telephone conference. The Court shall liberally grant Respondent's motion where it appears that the use of audio-video communications will hinder ascertainment of the truth or result in unfair prejudice to the Respondent. The Court must notify all parties of its ruling no less than 24 hours prior to the time of the hearing. During the pendency of this experiment, the examining physician shall, in addition to the other findings he/she will make, shall indicate whether the use of audio-video communications are contrary to the best interest of the respondent.

G) this Order does not prohibit conducting commitment hearings in the traditional manner during the experimental period

when all parties stipulate that it is in the best interest of justice to do so.

H) The Court shall cause a brief evaluation questionnaire to be completed by the participating parties and attorneys at the end of each audio-video communications assisted hearing, and shall provide the same to the evaluation committee hereinafter established.

5. Training: The Intertechnologies Group of the Minnesota Department of Administration shall train Court personnel and others who will participate in this experiment in the proper operation of the interactive audio-video communications equipment.

6. Security: The audio-video communications system shall be designed so that it can be assessed only through terminals at the Sibley County Courthouse and the RTC, and no other site.

7. Evaluation: The Honorable Thomas G. McCarthy, Judge of the First Judicial District, is appointed chair of the Evaluation Committee. Additional members of the Committee will be appointed by the Supreme Court within the next 60 days in the following categories:

- (1) County Attorney.
- (2) Office of Minnesota Attorney General.
- (3) Minnesota Department of Human Services.
- (4) Commitment Defense Project.
- (5) Client Advocate.
- (6) Court-appointed attorney for patients.
- (7) M.D., Independent psychiatric evaluator.
- (8) Consumer.

Frederick K. Grittner, Supreme Court Administrator and Clerk of Appellate Courts, shall

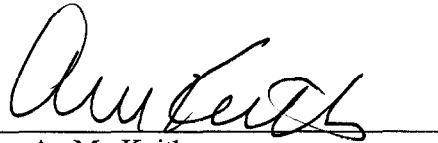
serve as liaison to the Evaluation Committee.

The Evaluation Committee shall address the quality of transmission, ease of use of the equipment, reliability of the equipment and transmission path, any disruptions to the proceedings, the ability to assess the demeanor of witnesses, and shall particularly address whether there is prejudice to any party as a result of the procedures used in this experiment.

The Evaluation Committee shall file with the Supreme Court an interim report 15 months after the commencement of this experiment, covering the first 12 months, and a final report 27 months after the commencement of this experiment.

Dated: ~~March~~ ^{April 5}, 1995

BY THE COURT



Hon. A. M. Keith
Chief Justice

OFFICE OF
APPELLATE COURTS

APR 5 - 1995

FILED