

FILED

April 25, 2019

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8049

**ORDER ESTABLISHING PUBLIC COMMENT
PERIOD REGARDING PROPOSED AMENDMENTS TO THE
RULES OF CRIMINAL PROCEDURE**

In an order filed on November 6, 2018, we directed the Advisory Committee for the Rules of Criminal Procedure to review the requirements for the use and preparation of transcripts for audio and video evidence used during criminal proceedings and on appeal. The committee filed its report and recommendations on February 28, 2019, recommending amendments to Minn. R. Crim. P. 11.10, 12.08, and 26.03, subd. 16, to clarify that a transcript of audio or video evidence cannot be required as a prerequisite to the admissibility of that evidence. The committee also recommends an amendment to Minn. R. Crim. P. 28.02, subd. 9, to address a court reporter's responsibilities with respect to the transcription of audio or video evidence.

The Rules of Civil Appellate Procedure, which govern criminal proceedings when the criminal rules do not direct otherwise, Minn. R. Crim. P. 28.01, subd. 2, require a court reporter to transcribe and certify the correctness of "any testimony given by audiotape, videotape, or other electronic means, unless that testimony has previously been transcribed[.]" Minn. R. Civ. App. P. 110.02, subd. 4 (also requiring a previously prepared transcript "with appropriate annotations and verification of the portions that were replayed at trial" to be included "as part of the official trial transcript"). Thus, we also referred consideration of rule 110.02 and the transcript-preparation requirements to the Advisory Committee for the Rules

of Civil Appellate Procedure. *See In re Rules of Civil Appellate Procedure*, No. ADM09-8006, Order at 3 (Minn. filed Nov. 13, 2018). After reviewing the report and recommendations by the Advisory Committee for the Rules of Criminal Procedure, the Advisory Committee for the Rules of Civil Appellate Procedure recommended that no amendments be made to Minn. R. Civ. App. P. 110.02, subd. 4. *See Recommendations of the Minn. Supreme Court Advisory Comm. On the Rules of Civil App. Proc.*, No. ADM09-8006, at 1 (filed Apr. 1, 2019).

The court must now consider whether to adopt the committee's recommendations to amend the Rules of Criminal Procedure governing transcription of audio and video evidence, even if the recommendation by the Advisory Committee for the Rules of Civil Appellate Procedure to make no changes to Minn. R. Civ. App. P. 110.02, subd. 4, is also adopted.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that any person or organization that wants to provide written comments in support of or opposition to the proposed amendments to the Rules of Criminal Procedure shall file one copy of those comments with the Clerk of the Appellate Courts, using the appellate courts' electronic filing system if required to do so. *See Minn. R. Civ. App. P. 125.01(a)(1)*. All comments shall be filed so as to be received by the Clerk on or before June 25, 2019.

Dated: April 25, 2019

BY THE COURT:



Lorie S. Gildea
Chief Justice