

FILED

June 18, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM10-8049

**IN RE THE MINNESOTA SUPREME COURT ADVISORY
COMMITTEE ON THE RULES OF CRIMINAL PROCEDURE**

O R D E R

The rules that currently authorize audio and video coverage in certain criminal proceedings in district court have been in place for over 5 years, first to govern a pilot project, and later, as the permanent rules based on input from the pilot project. *Order Promulgating Amendments to Minn. Gen. R. Prac.*, No. ADM09-8009, at 1–2 (Minn. filed Aug. 12, 2015); *Order Promulgating Amendments to Gen. R. Prac.*, No. ADM09-8009 (Minn. filed July 2, 2018); *see also* Minn. Gen. R. Prac. 4.02(d)–(e) (providing the standards for media coverage). Under these rules, coverage is allowed “with the consent of all parties” before a guilty plea has been accepted or a guilty verdict is returned, and after a plea is accepted or a verdict is returned, coverage is allowed absent good cause or other reasons to prohibit it. Minn. Gen. R. Prac. 4.02(d)–(e). The data gathered during the pilot project allowed us to conclude that expanded media coverage of criminal proceedings—with unanimous party consent before a verdict or plea, or at the post-plea or post-verdict stage—can be allowed while maintaining an appropriate balance between the fundamental right to a fair trial, society’s interest in public proceedings, and the judiciary’s interest in the fair and impartial administration of justice. *See State v. Schmit*, 139 N.W.2d

800, 803, 806–07 (Minn. 1966) (explaining the public status of criminal proceedings, and the interests in the fair and impartial administration of justice).

More recently, audio and video coverage of all court proceedings, including some criminal proceedings, has been a critical component of public access during the COVID-19 pandemic. While court facilities were largely inaccessible to the public at the height of the pandemic, *see Order Governing the Continuing Operations of the Minnesota Judicial Branch*, No. ADM20-8001, at 5 (Minn. filed Nov. 20, 2020), media access to proceedings conducted during that time, or expanded use of video conferencing or livestream technologies, fulfilled the public interest in the fair administration of justice. Apart from the pandemic, however, the constitutional right to a public trial, *see* U.S. Const. amend. VI; Minn. Const. art. I, § 6, may in some circumstances require expanded media access to or coverage of some proceedings even without party consent.

Public interest in and access to judicial proceedings is vital to the fair, open, and impartial administration of justice; it promotes confidence in the basic fairness that is an essential component of our system of justice. Thus, as we continue to expand in-person proceedings in Minnesota’s court facilities, now is also the time to consider whether the requirements that currently govern audio and video coverage of criminal proceedings should be modified. The Advisory Committee for the Rules of Criminal Procedure developed the rules for the pilot project conducted from 2015 to 2017, and is best suited to consider whether and if so how the rules should be amended to accommodate wider public access to the proceedings governed by Rule 4.02(d)–(e).

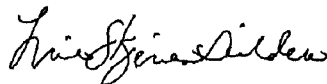
Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the Minnesota Supreme Court Advisory Committee on the Rules of Criminal Procedure shall review Rule 4.02(d)–(e) of the General Rules of Practice for the District Courts, update the information obtained during the pilot project conducted from 2015–2017 regarding the implementation of this rule in the district courts, and consider whether the requirements set forth in that rule for audio and video coverage of criminal proceedings should be modified or expanded.

IT IS FURTHER ORDERED that the committee shall complete its review and file a report and recommendations regarding these issues on or before July 1, 2022.

Dated: June 18, 2021

BY THE COURT:



Lorie S. Gildea
Chief Justice