

Serial: 183627

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99025-SCT

*IN RE: UNIFORM RULES OF CIRCUIT
AND COUNTY COURT PRACTICE*

ORDER

This matter is before the Court en banc on the Court's own motion to adopt Rule 6.08 of the Uniform Rules of Circuit and County Court. The new rule is necessary to govern proceedings conducted using interactive audiovisual equipment. After due consideration, the Court finds that Rule 6.08 of the Uniform Rules of Circuit and County Court, as set forth in Exhibit "A," will promote the fair and efficient administration of justice and should be adopted.

IT IS THEREFORE ORDERED that Rule 6.08 of the Uniform Rules of Circuit and County Court is hereby adopted as set forth in Exhibit "A" hereto. The amendment is effective on April 18, 2013.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this Order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Third Series, (Mississippi Edition)*.

SO ORDERED, this the 15th day of April, 2013.

/s/ Ann H. Lamar

ANN H. LAMAR, JUSTICE
FOR THE COURT

Exhibit “A”

Rule 6.08 Interactive Audiovisual Devices.

(a) General Provisions. When the appearance of a defendant or counsel is required in circuit, county, municipal or justice court, subject to the provisions of this Rule, the appearance may be made by the use of interactive audiovisual equipment, including video conferencing equipment. Interactive audiovisual equipment shall at a minimum operate so as to enable the court and all parties to view and converse with each other.

(b) Requirements. In using interactive audiovisual equipment the following are required:

- (1) a full record of the proceedings shall be made as provided in applicable rules;
- (2) the court shall determine that the defendant knowingly, intelligently, and voluntarily agrees to appear at the proceeding by interactive audiovisual means; and
- (3) provisions shall be made to allow for confidential communications between the defendant and counsel before and during the proceeding. Defense counsel shall be present at the location with the defendant during the proceedings.
- (4) Appearance by interactive audiovisual equipment, including video conferencing, may be permitted in the discretion of the court at any proceeding except that this rule shall not apply to any trial, probation violation hearing, or any plea or sentencing.

Comment

Section (b) preserves a defendant's right to be present personally by providing that a defendant must consent to appear by interactive audiovisual means. While section (b)(4) generally puts the use of such technology in the discretion of the court, Rule 6.08 is inapplicable to trials, probation violation hearings, and pleas and sentencing. By the adoption of this rule, the Supreme Court has superceded Section 99-1-23 of the Mississippi Code, exercising its inherent authority to adopt rules of practice, procedure and evidence to promote justice, uniformity, and the efficiency of the courts. *See State v. Delaney*, 52 So. 3d 348, 351 (Miss. 2011); *Hall v. State*, 539 So. 2d 1338 (Miss. 1989); *Newell v. State*, 308 So. 2d 71 (Miss. 1975).

[Adopted effective April 18, 2013.]