

MISSISSIPPI RULES FOR ELECTRONIC AND PHOTOGRAPHIC COVERAGE OF JUDICIAL PROCEEDINGS

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MISSISSIPPI RULES FOR ELECTRONIC AND PHOTOGRAPHIC COVERAGE OF JUDICIAL PROCEEDINGS

[The Mississippi Rules for Electronic and Photographic Coverage of Judicial Proceedings are adopted effective April 17, 2003 for proceedings conducted from and after July 1, 2003.]

RULE 1. GENERAL. Electronic media coverage of judicial proceedings in Mississippi Courts shall be governed by the following rules. These rules apply to the Supreme Court, Court of Appeals, chancery courts, circuit courts, and county courts and may be cited as MREPC.

RULE 2. DEFINITION.

(a) "Media" shall mean all persons and organizations engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, professional journal, and other news reporting or news gathering agencies.

(b) "Electronic media coverage" and "electronic coverage" shall mean any reporting, recording, broadcasting, narrowcasting, cablecasting, and webcasting of court proceedings by the media using television, radio, photographic, recording, or other electronic device.

(c) "Judicial proceedings" shall mean any trial, pre-trial hearings, post-trial hearings and appellate arguments.

RULE 3. ELECTRONIC MEDIA COVERAGE ALLOWED. Electronic media coverage of public judicial proceedings shall be allowed in the appellate and trial courts of record in this state subject to the conditions below. The presiding justice or judge has the discretion to limit or terminate electronic coverage at any time during the proceedings if the court deems such necessary and in the interest of justice to protect the rights of the parties or witnesses, or the dignity of the court, or to assure orderly conduct of the proceedings.

(a) *Authority of presiding justice or judge.* All electronic coverage is subject at all time to the authority of the presiding justice or judge to (i) control the conduct of the proceedings, (ii) ensure decorum and prevent distraction, and (iii) ensure fair administration of justice in the pending case. The rights of the parties to a fair adjudication are recognized as paramount. It is the responsibility of the media to so arrange and operate equipment in order to comply with these rules.

(b) *Persons other than media representatives.* These rules do not allow the use of electronic devices by attorneys and persons other than media representatives except as may be allowed by the court.

(c) *Coverage of certain matters prohibited.* Electronic coverage of the following matters is expressly prohibited unless the presiding justice or judge shall allow the coverage by order: divorce; child custody; support; guardianship; conservatorship; commitment; waiver of parental consent to abortion; adoption; delinquency and neglect of minors; determination of paternity; termination of parental rights; domestic abuse; motions to suppress evidence; proceedings involving trade secrets; and in camera proceedings.

(d) *Coverage of certain persons prohibited.* Electronic coverage of the following categories of witnesses is expressly prohibited: police informants,

minors, undercover agents, relocated witnesses, victims and families of victims of sex crimes, and victims of domestic abuse.

RULE 4. RESTRICTIONS.

(a) The location of equipment and personnel necessary for electronic media coverage of judicial proceedings shall be at a place either inside or outside the courtroom so as to be minimally intrusive to the proceedings. Only equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. No flash or strobe lighting shall be used. All running wires shall be securely taped to the floor. No other artificial lighting device of any kind shall be employed in connection with electronic coverage unless otherwise authorized by the court. Matters covered by this sub-part are subject to the discretion of the presiding judge and may be relaxed so long as the coverage does not result in distraction of the proceedings.

(b) No members or potential members of the jury may be recorded or shown at any time prior to their dismissal, nor shall the jury selection process be subject to electronic coverage. The presiding judge shall inform all potential jurors at the beginning of the jury selection process of the restrictions of this particular provision.

(c) No audio recording is permitted of off-the-record conferences in the courtroom between the court and counsel, or between counsel and co-counsel, or between counsel and clients or witnesses.

(d) Judicial proceedings held in chambers and proceedings generally closed to the public shall not be subject to electronic coverage.

(e) Electronic media equipment shall not be taken into the courtroom, relocated, or removed from the designated media area except prior to convening of the judicial proceedings, during recesses, and after adjournment for the day. This prohibition shall not apply to small, handheld electronic devices.

(f) Unless otherwise allowed by the presiding judge, no more than one television camera or video recorder, one audio system for radio broadcasting, and one still photographer shall be allowed in any judicial proceeding. If pooling arrangements are employed, such data or information is to be available equally to all pool participants, and the pool representative shall charge no fees or expenses to the other pool participants. The pool representative is not to be given any economic or coverage advantage over the other pool participants. Any pooling arrangements among the media required by these limitations on

equipment and personnel shall be the sole responsibility of the media without calling upon the presiding justice or judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the presiding justice or judge shall exclude all contesting media personnel from a proceeding.

(g) The Chief Justice of the Supreme Court, and the Chief Judge of the Court of Appeals may waive these restrictions with respect to judicial proceedings in the Supreme Court and in the Court of Appeals, respectively.

[Amended effective December 9, 2004 to give the presiding judge discretion as to application of technical limitations of coverage; amended effective September 29, 2005.]

RULE 5. NOTICE. Media representatives who propose to engage in electronic coverage of a judicial proceeding shall notify the clerk and the court administrator of the court of such intention at least forty-eight (48) hours prior to the commencement of the proceeding. The presiding justice or judge may shorten or waive the time for advance notice.

RULE 6. DECORUM. The decorum and dignity of the court, the courtroom, and the judicial proceedings must be maintained at all times. Court customs shall be followed including appropriate attire. Movement in the courtroom during the proceedings shall be limited and may be completely prohibited except during breaks or recesses. Disruption of proceedings will not be permitted.

RULE 7. OBJECTIONS. Any party may object to electronic coverage by written motion, which may be supported by affidavits. Such motions shall be filed no later than fifteen (15) days prior to commencement of the judicial proceedings, unless good cause exists to shorten the time for filing.

RULE 8. IMPERMISSIBLE USE OF MATERIAL. No material gathered by electronic media shall be part of the official court record of the judicial proceedings covered unless admitted into evidence. The official court record of any judicial proceeding is the transcript of the original notes and all exhibits introduced into evidence in the proceeding.

RULE 9. ENFORCEMENT AND SANCTIONS. A violation of these rules may be sanctioned by measures deemed appropriate by the court.

RULE 10. EXPIRATION–DELETED

Rule 10, providing for expiration of the Rules for Electronic and Photographic Coverage of

Judicial Proceedings on December 31, 2004 was repealed effective December 9, 2004.

[Adopted effective April 17, 2003 for proceedings occurring from July 1, 2003; amended to remove expiration date, December 9, 2004.]

Comment

Section 3B(12) of the Code of Judicial Conduct prohibits broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto except as authorized by rule or order of the Supreme Court. Also, Rule 1.04 of the Uniform Rules of Circuit and County Court allows cameras only “in accordance with the Code of Judicial Conduct.” Thus, electronic coverage is allowed only for special purposes authorized in Section 3B(12), or under these Rules for Electronic and Photographic Coverage of Judicial Proceedings (MREPC.)

The MREPC recognize that the use of cameras, television, broadcast, and other electronic media to cover court proceedings presents special considerations unique to their use. In addressing these considerations, the rule recognizes both that in certain public proceedings such coverage can be intimidating and unnecessarily intrusive into the lives of citizens, even where there is no expectation of privacy, and that these special logistical problems are attendant to the use of new technologies.

In MREPC 2(b), “electronic media coverage” and “electronic coverage” are defined to include the use of still cameras.

The MREPC neither limit nor expand the authority of law for general closing of proceedings, the general exclusion of the public and the media from the courtroom, or the sealing of documents. These broader limitations on public access areas are addressed in the Constitution and statutes of the state as well as the decisions of the courts. Article 3, Section 26 of the Mississippi Constitution provides that the court may in certain specified cases, in its discretion, exclude from the courtroom all persons except such as are necessary in the conduct of the trial. Examples of proceedings for which statutes either mandate or permit closed hearings include certain divorce proceedings (Miss. Code Ann. §93-5-21), those for waiver of parental consent to an abortion for a minor (Miss. Code Ann. § 41-41-55), proceedings raising the sexual conduct of a complaining witness in a rape case (Miss. Code Ann. § 97-3-68), and Youth Court Proceedings (Miss. Code Ann. § 43-21-203). The closing of proceedings generally and procedures for notice and hearing prior to closing are addressed in *Gannett River States Pub. Co. v. Hand*, 571 So. 2d 941 (Miss. 1990) and *In re Memphis Publishing Company*, 823 So. 2d 1150 (Miss. 2001).

[Adopted effective April 17, 2003.]