

Unified Judicial System

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***Supreme Court Adopts Rules for Expanded
Media Coverage of South Dakota's Trial Courts***

For Immediate Release

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The Supreme Court of South Dakota announces that it will allow video and still cameras in the trial courts of South Dakota on a regulated basis. It does so after adopting a rule allowing such coverage on February 28, 2011. The new rule will become effective July 1, 2011.

In 2009 the South Dakota Legislature repealed a law which prohibited cameras in criminal cases. That left the South Dakota Supreme Court the option of considering the modification of its own court rule which also prohibited cameras in the circuit and magistrate courts of the State. The Supreme Court appointed a committee to thoroughly study the issue as each state has approached the subject differently. The Committee, chaired by former Chief Justice Robert A. Miller, was comprised of Circuit Judges, attorneys, law enforcement, the media, prosecutors, criminal defense attorneys, the State Bar, the Attorney General, a victim's advocate and a county representative. The Committee examined how other states have addressed this important issue and visited with representatives from several of those states. It then issued its report to the Supreme Court in January of 2010. A majority of the Committee recommended a system similar to that in use in Minnesota, which allows expanded media coverage where the parties and the trial court agree. A second recommendation by a minority of the Committee was to allow expanded media coverage unless the trial court specifically found otherwise. A third option, proposed by the Attorney General, would have allowed internet streaming of trial court proceedings. This proposal was later voluntarily withdrawn due to the costs of implementation.

In October of 2010, the Supreme Court held a public hearing in Pierre to take public comment on the three proposals along with the fourth option of continuing the current ban. After review by the Justices and the Supreme Court staff, the Court decided to allow expanded media coverage in two instances:

The first instance will allow both audio and video coverage when all the parties agree to it. This is the option recommended by a majority of the Camera's Committee and was supported by a significant majority of the Circuit and Magistrate Judges.

A second instance will allow audio only coverage when the trial judge determines that such audio coverage is appropriate but all the parties have not consented to audio/video coverage. Video cameras will not be allowed in that instance as a bulk of the objections to media coverage during the Committee and Supreme Court hearings dealt with the intimidating impact a camera can have on jurors, parties to the action and witnesses. No one expressed a similar concern over the use of microphones which are already used for amplification purposes in most courtrooms in the State. The Supreme Court has allowed similar live audio coverage of its own proceedings on the internet since 2001.

Under either option, certain proceedings such as juvenile hearings which are closed by law, and portions of other proceedings, are still off-limits to media coverage when the judge decides it is not appropriate for such coverage. The judge also retains the power to terminate coverage if the judge determines such action appropriate.

Chief Justice David Gilbertson expressed appreciation for all those who provided input to the Court in making this decision. "The Court has chosen a middle path on this issue to insure that persons who come into our courts continue to receive a fair trial. We will closely follow how these new proceedings work. This will also allow the judges, attorneys and other court personnel to become familiar and comfortable with this new environment. In the future, if this current system works without difficulties and the Court deems it appropriate, the Supreme

Court has the option of looking at expansion of the system. On the other hand, if significant problems arise the Court can also correct those.”

Prior to the implementation date, the Supreme Court plans to have training sessions for the Circuit Judges, Magistrate Judges and other court personnel. A copy of the new rules can be found below or on the UJS website at <http://ujs.sd.gov/>

[SC Rule 10-08.pdf](#)

[SC Rule 10-09.pdf](#)

[Press Conference Audio](#)