Rule 4. Visual and Audio Recordings

Rule 4.01 General Rule

Except as set forth in this rule, no visual or audio recordings, except the recording made as the official court record, shall be taken in any courtroom, whether in person or using remote technology, area of a courthouse where courtrooms are located, or other area designated by order of the chief judge made available in the office of the court administrator in the county, during a trial or hearing of any case or special proceeding incident to a trial or hearing, or in connection with any grand jury proceedings. Visual and audio coverage or recording includes film, video, livestreaming, and still photography. For purposes of this rule, a hearing held remotely using video technology is not considered livestreaming and any recording or broadcasting of such hearings is prohibited unless specifically authorized by the presiding judge.

This rule may be superseded by specific rules of the Minnesota Supreme Court relating to use of cameras in the courtroom for courtroom security purposes, for use of video or audio recording of proceedings to create the official recording of the case, for interactive video hearings pursuant to rule or order of the Supreme Court, or by exceptions listed in Rule 4.02. This Rule 4 does not supersede the provisions of the Minnesota Rules of Public Access to Records of the Judicial Branch.

(Amended effective March 1, 2009; amended effective September 1, 2018; amended effective January 1, 2024.)

Advisory Committee Comment - 2023 Amendments

Rule 4.01 is modified in 2023 to reflect broader use of remote court proceedings and to ensure consistent limits on recording of proceedings regardless of format.

Rule 4.02 Exceptions

(a) A judge may authorize the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration.

(b) A judge may authorize the broadcasting, televising, recording or photographing of investitive, ceremonial or naturalization proceedings.

(c) In civil proceedings, a judge may authorize, without the consent of all parties, the visual or audio recording and reproduction of appropriate court proceedings under the following conditions:

(i) There shall be no visual or audio coverage of jurors at any time during the trial, including *voir dire*.

(ii) There shall be no visual or audio coverage of any witness who objects thereto in writing or on the record before testifying.

(iii) Visual or audio coverage of judicial proceedings shall be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(iv) There shall be no visual or audio coverage within the courtroom during recesses or at any other time the trial judge is not present and presiding.

(v) Preceding or during a jury trial, there shall be no visual or audio coverage of hearings that take place outside the presence of the jury. This provision does not prohibit visual or audio coverage of appropriate pretrial hearings in civil proceedings, such as hearings on dispositive motions.

(vi) There shall be no visual or audio coverage in cases involving child custody, marriage dissolution, juvenile proceedings, child protection proceedings, paternity proceedings, petitions for orders for protection, and proceedings that are not accessible to the public.

(d) In criminal proceedings occurring before a guilty plea has been accepted or a guilty verdict has been returned, a judge may authorize the visual or audio recording and reproduction of trial proceedings unless there is a substantial likelihood that coverage would expose any victim, or witness who may testify at trial, to harm, threats of harm, or intimidation. To determine whether to grant a request for visual or audio recording and reproduction, the presiding judge may consider any relevant factors, including but not limited to (1) the positions of the parties and wishes of the victim(s); (2) the level of public interest in the trial; (3) the necessity of coverage to safeguard the defendant's right to a public trial or the public's right of access to criminal trials; (4) the existence of security issues, courtroom or courthouse facility limitations, or public health concerns that would merit restricting observers from the physical courtroom; (5) courtroom or courthouse facility limitations that would render coverage impractical; (6) the positive or negative impact of recording and reproduction on the dignity and decorum of the trial proceedings; and (7) the effect of recording and reproduction on transparency, public eduction, and public trust and confidence in the proceedings or the judicial system. Coverage under this paragraph is subject to the following limitations:

(i) There shall be no visual or audio coverage during *voir dire*, and no visual or audio coverage of jurors at any time during the trial or at any time when the name or identity of a juror could be revealed such as the polling of the jury.

(ii) There shall be no visual or audio coverage of any witness, victim, or defendant who is a minor at the time of the trial. There shall be no visual or audio coverage of any adult witness or victim who objects thereto in writing or on the record before testifying.

(iii) Visual or audio coverage of judicial proceedings shall be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(iv) There shall be no visual or audio coverage within the courtroom during recesses or at any other time the trial judge is not present and presiding.

(v) There shall be no visual or audio coverage of any pretrial proceedings, including but not limited to bail hearings, arraignment, pretrial or omnibus hearings, motions *in limine* or any other proceedings prior to the jury being sworn, or any hearings that take place outside the presence of the jury.

(vi) No visual or audio coverage is permitted in cases involving charges under Minnesota Statutes, sections 609.293 to 609.352; 609.185 paragraph (a), clause (2); 609.365, 617.241, 617.246, or 617.247; or in cases in which a victim is a family or household member as defined in Minnesota Statutes, section 518B.01, subdivision 2, paragraph (b), and the charges include an offense listed in Minnesota Statutes, section 609.02, subdivision 16, unless the victim(s) is an adult and makes a request in writing or on the record asking the judge to allow coverage.

In any court order authorizing visual or audio coverage of trial proceedings, the judge may include any other restrictions on coverage in the judge's discretion, including but not limited to restrictions on the coverage of certain parties, witnesses, or other participants, or graphic or emotionally disturbing or otherwise sensitive exhibits.

(e) In criminal proceedings occurring after a guilty plea has been accepted or a guilty verdict has been returned, a judge must, absent good cause, allow visual or audio coverage. The fact that a guilty plea will be accepted or a guilty verdict returned at the same hearing when sentencing will

occur is not a basis to deny coverage of a sentencing proceeding. The consent of the parties is not required for coverage under this paragraph and lack of consent is not good cause to deny coverage. To determine whether there is good cause to prohibit coverage of the proceeding, or any part of it, the judge must consider (1) the privacy, safety, and well-being of the victim(s), defendant, participants, or other interested persons; (2) the likelihood that coverage will detract from the dignity of the proceeding; (3) the physical facilities of the court; and (4) the fair administration of justice. Coverage under this paragraph is subject to the following limitations:

(i) No visual or audio coverage is permitted of jurors at hearings to determine whether there are aggravating factors that would support an upward departure under the sentencing guidelines.

(ii) Visual and audio coverage is not permitted at any proceeding held in a treatment court, including drug courts, mental health courts, veterans courts, and DWI courts except if participants are nearing graduation and consent to visual and audio coverage, in which case coverage may be permitted for purposes of producing videos or materials for promotional, educational, or stories in the public interest.

(iii) No visual or audio coverage is permitted in cases involving charges under Minnesota Statutes, sections 609.293 to 609.352 or 609.185, paragraph (a), clause (2), 609.365, 617.241, 617.246, or 617.247; or in any case in which a victim is a family or household member as defined in Minnesota Statutes, section 518B.01, subdivision 2, paragraph (b), and the charges include an offense listed in Minnesota Statutes, section 609.02, subdivision 16, unless the victim(s) is an adult and makes a request in writing or on the record asking the judge to allow coverage.

(iv) No visual or audio coverage is permitted of a victim, as defined in Minnesota Statutes, section 611A.01, paragraph (b), or a person giving a statement on behalf of the victim as the victim's proxy, unless the victim is an adult at the time of sentencing, and the adult victim, or when applicable the adult victim's proxy, affirmatively acknowledges and agrees in writing to the proposed coverage.

(v) Visual or audio coverage must be limited to proceedings conducted within the courtroom, and shall not extend to activities or events substantially related to judicial proceedings that occur in other areas of the court building.

(vi) No visual or audio coverage within the courtroom is permitted during recesses or at any other time the trial judge is not present and presiding.

(Added effective March 1, 2009; amended effective March 12, 2009; amended effective July 1, 2011; amended effective November 10, 2015; amended effective September 1, 2018, amended effective January 1, 2024.)

Rule 4.03 Procedures Relating to Requests for Visual and Audio Coverage of Authorized District Court Proceedings

The following procedures apply to visual or audio coverage of district court proceedings where authorized under Rule 4.02:

(a) **Notice.** Unless notice is waived by the trial judge, as far in advance as practicable, and at least 7 days before the commencement of the hearing or trial, the media shall provide written notice of their intent to cover authorized district court proceedings by either visual or audio means to the trial judge, and to the court administrator, who shall promptly provide a copy of the notice to all counsel of record, and any parties appearing without counsel. The media shall also provide a copy of the written notice to the State Court Administrator's Court Information Office. The media shall also notify their respective media coordinator identified as provided under part (e) of this rule of

the request to cover proceedings in advance of submitting the request to the trial judge, if possible, or as soon thereafter as possible.

(b) **Objections.** If a party opposes visual or audio coverage, the party shall provide written notice of the party's objections to the presiding judge, the other parties, and the media requesting coverage as soon as practicable, and at least 72 hours before the commencement of the hearing or trial in cases where the media have given at least 7 days' notice of their intent to cover the proceedings. The media is not a party and is not entitled to file a written response to any objections. The judge shall rule on any objections and make a decision on visual or audio coverage before the commencement of the hearing or trial. However, the judge has the discretion to limit, terminate, or temporarily suspend visual or audio coverage of an entire case or portions of a case at any time.

(c) **Witness Information and Objection to Coverage.** At or before the commencement of the hearing or trial in cases with visual or audio coverage, each party shall inform all witnesses the party plans to call that their testimony will be subject to visual or audio recording unless the witness objects in writing or on the record before testifying. This provision does not apply to victims giving a statement at a sentencing hearing, which is governed by Rule 4.02, paragraph (e), clause (iv).

(d) **Appeals.** No ruling of the presiding judge relating to the implementation or management of visual or audio coverage under this rule shall be appealable until the underlying matter becomes appealable, and then only by a party.

(e) **Media Coordinators.** Media coordinators for various areas of the state shall be identified on the main state court web site. The media coordinators shall facilitate interaction between the courts and the media regarding visual or audio coverage of authorized district court proceedings. Responsibilities of the media coordinators include:

(i) Compiling basic information (e.g., case identifiers, judge, parties, attorneys, dates and coverage duration) on all requests for use of visual or audio coverage of authorized trial court proceedings for their respective court location(s) as identified on the main state court web site, and making aggregate forms of the information publicly available;

(ii) Explaining to persons requesting visual or audio coverage of trial court proceedings for their respective court location(s) the local practices, procedures, and logistical details of the court related to visual and audio coverage;

(iii) Resolving all issues related to pooling of cameras and microphones related to visual or audio coverage of trial court proceedings for their respective court location(s).

(Added effective July 1, 2011; amended effective May 1, 2012; amended effective December 3, 2013; amended effective November 10, 2015; amended effective September 1, 2018; amended effective January 1, 2020.)

Rule 4.04 Technical Standards for Visual, Audio, and Broadcast Coverage of Judicial Proceedings

The trial court may regulate any aspect of the proceedings to ensure that the means of recording will not distract participants or impair the dignity of the proceedings, including limiting coverage of non-parties present in the courtroom. In the absence of a specific order imposing additional or different conditions, the following provisions apply to all proceedings.

(a) Equipment and personnel.

(1) Not more than one portable television or movie camera, operated by not more than one person, shall be permitted in any trial court proceeding.

(2) Not more than one still photographer, utilizing not more than two still cameras with not more than two lenses for each camera and related equipment for print purposes, shall be permitted in any proceeding in any trial court.

(3) Not more than one audio system for radio broadcast purposes shall be permitted in any proceeding in any trial court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court. If no technically suitable audio system exists in the court, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the trial judge.

(4) 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 trial 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 trial judge shall exclude from a proceeding all media personnel who have contested the pooling arrangement.

(b) Sound and light.

(1) Only television camera and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. Excepting modifications and additions made pursuant to Paragraph (e) below, no artificial, mobile lighting device of any kind shall be employed with the television equipment.

(2) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings.

(3) Media personnel must demonstrate to the trial judge adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light requirements of this rule. A failure to demonstrate that these criteria have been met for specific equipment shall preclude its use in any proceeding.

(c) Location of equipment and personnel.

(1) Television camera equipment shall be positioned in such location in the court as shall be designated by the trial judge. The area designated shall provide reasonable access to coverage. When areas that permit reasonable access to coverage are provided, all television camera and audio equipment must be located in an area remote from the court.

(2) A still camera photographer shall be positioned in such location in the court as shall be designated by the trial judge. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once a photographer has established that position, the photographer shall act so as not to attract attention by distracting movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of court proceedings.

(3) Broadcast media representatives shall not move about the court facility while proceedings are in session.

(d) Movement of equipment during proceedings. News media photographic or audio equipment shall not be placed in, or removed from, the court except before commencement or after adjournment of proceedings each day, or during a recess. Microphones or recording equipment, once positioned as required by (a)(3) above, may not be moved from their position during the pendency of the proceeding. Neither television film magazines nor still camera film or lenses may be changed within a court except during a recess in the proceedings.

(e) Courtroom light sources. When necessary to allow news coverage to proceed, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions do not produce distracting light and are installed and maintained without public expense. Such modifications or additions are to be presented to the trial judge for review prior to their implementation.

(f) Conferences of counsel. To protect the attorney-client privilege and the effective right to counsel, there shall be no video or audio pickup or broadcast of the conferences which occur in a court between attorneys and their client, co-counsel of a client, opposing counsel, or between counsel and the trial judge held at the bench. In addition, there shall be no video pickup or broadcast of work documents of such persons.

(g) Impermissible use of media material. None of the film, video, still photographs or audio reproductions developed during, or by virtue of, coverage of a judicial proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any retrial or appeal of such proceedings.

(Added effective March 1, 2009; amended effective July 1, 2011; amended effective December 3, 2013; amended effective September 1, 2018.)