

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 647

Three-part Order Relating
to Canon 3(A)(7), Code of
Judicial Conduct, and Plan
for the Media Coverage of
Judicial Proceedings

IT IS ORDERED:

1. Canon 3(A)(7), Code of Judicial Conduct, is repealed and reenacted, to read:

CODE OF JUDICIAL CONDUCT

Canon 3(A)(7) Adjudicative Responsibilities

(7)(a) Subject at all times to the authority of a judge to (i) control the conduct of proceedings before the court, (ii) ensure decorum and prevent distractions, and (iii) ensure the fair administration of justice in the pending cause, and upon consent of the judge who would be presiding at the proceeding, electronic media and still photography coverage of public judicial proceedings in the trial and appellate courts of this state shall be allowed in accordance with standards of conduct and technology promulgated by the Supreme Court of Alaska.

(b) Standards for conduct and technology shall include provisions governing the numbers and types of camera and broadcast equipment to be allowed, numbers of camera and equipment operators, location of cameras and equipment and media personnel, movement of personnel and equipment, lighting augmentation if any to be allowed, forms, designation of courtrooms approved for extended media coverage, and other details as may be necessary to regulate media activity in accordance with this subsection.

(c) Extended media coverage provisions set forth in (7)(a) shall not apply to matters involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and visitation, adoption, paternity and other family matters. Media coverage for these proceedings is prohibited, except that it may be allowed on a case-by-case basis only upon approval of the judge presiding and the consent of all parties, including any guardians ad litem. For media coverage of proceedings which deal with sexual offenses, the permission of the victim and the judge shall be required.

(d) For matters other than those listed in paragraph (c) a judge may exclude electronic media and still photography coverage of a particular participant in a proceeding for which the judge has allowed media coverage only upon that participant's request and only upon a finding that such coverage will have a substantial effect upon the particular individual that would be

qualitatively different from the effect on members of the public in general and such effect will be qualitatively different from coverage by other types of media.

(e) Any judge limiting electronic media and still photography coverage shall (1) use the least restrictive means necessary to remedy the anticipated harm, and in all cases (2) limit or exclude electronic media or still photography coverage only for specific reasons, articulated on the record.

(f) Each judge will ensure that media activity will not distract the participants, impair the dignity of the proceedings, or interfere with the achievement of a fair and impartial hearing or trial.

(g) Participating members of the media shall agree to abide by the provisions of this subsection and any standards of conduct and technology promulgated by the Supreme Court of Alaska.

2. The Plan for Media Coverage of Judicial Proceedings is amended as set forth in the pages attached to this order.

3. This order is effective until July 1, 1986. The Alaska Judicial Council shall monitor the impact of the amended canon and media coverage plan upon media coverage of judicial proceedings and upon the courts. No later than June 1, 1986, the Council shall provide the Supreme Court with a written report assessing the impact.

DATED: June 6, 1985

Joseph Rabinowitz

Chief Justice Rabinowitz

EFFECTIVE DATE: July 1, 1985

Samuel J. Burke

Justice Burke

Warren W. Matthews

Justice Matthews

Allen F. Compton

Justice Compton

Don Moore

Justice Moore

*Chief Justice Rabinowitz and Justice Matthews dissent from those portions of this order which eliminate the requirement of the consent of the defendant in criminal cases.

PLAN FOR MEDIA COVERAGE OF JUDICIAL PROCEEDINGS

This plan for media coverage of judicial proceedings applies to all live and delayed broadcasting and televising, and to still photography of proceedings conducted by the Supreme Court, Court of Appeals, Superior Courts, and District Courts in Alaska.

1. Limitations on Coverage.

(a) Open Coverage Area. The presiding judge for each judicial district and the area court administrator shall designate for each court location a public area in which media coverage may take place without obtaining prior approval.

(b) Vacant Courtrooms. No coverage shall be allowed in a courtroom in which court is not in session or in adjacent areas unless prior approval is obtained pursuant to procedures set forth in paragraph 8.

(c) Judicial Proceedings. No television, radio or still camera equipment shall be allowed in a courtroom or adjacent areas during a proceeding before a court or during recesses in the proceeding unless prior permission has been obtained from the judge presiding at the proceeding. Coverage may be prohibited only for specific reasons articulated on the record or in writing which relate to the judge's ability to (i) control the conduct of proceedings before the court, (ii) ensure decorum and prevent distractions, and (iii) ensure the fair administration of justice in the pending cause.

A judge may exclude electronic media coverage of a particular participant in a proceeding for which the judge has allowed media coverage only upon the participant's request and only upon a finding that such coverage will have a substantial effect upon the particular individual which would be qualitatively different from the effect on members of the public in general and such effect will be qualitatively different from coverage by other types of media.

(d) Proceedings Involving Sexual Offenses. For media coverage of proceedings which involve sexual offenses, the

permission of the victim and the judge presiding at the proceeding shall be required.

(e) Family Matters. Television, radio, or still camera equipment shall not be allowed in proceedings involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child custody and visitation, adoption, paternity, and other family matters, except on a case-by-case basis with the approval of the judge presiding and the consent of all parties, including any guardians ad litem.

(f) Number of Cameras. Not more than two portable television cameras (or 16mm sound or film cameras), operated by not more than one camera operator each, shall be permitted in a courtroom or adjacent areas in any trial court proceeding or during recesses in the proceeding. A judge in any court location presiding at a proceeding may permit not more than one such camera operated by one camera operator if the judge determines that the courtroom size warrants this limitation. In Anchorage, not more than one such camera operated by one camera operator shall be permitted in the hearing room adjacent to the traffic courtroom on the first floor of the "old" court building and in Courtrooms "B", "D", "H", and "K" in the "new" court building unless the judge presiding at a proceeding held in one of these rooms specifically authorizes an additional camera and operator. Not more than two television cameras (or 16mm sound or film cameras), operated by not more than one camera operator each, shall be permitted in a courtroom or adjacent areas in any courtroom or adjacent areas in any court of appeals or supreme court proceeding or during recesses in the proceeding. These provisions do not apply to a courtroom which the administrative director has designated as a media courtroom.

(g) Number of Photographers. Not more than two photographers operating not more than two still cameras each shall be permitted in a courtroom or adjacent areas in any judicial proceeding or during recesses in the proceeding. These provisions do not apply to a courtroom which the administrative director has designated as a media courtroom.

(h) Number of audio systems for radio broadcast. Not more than two audio systems for radio broadcast purposes shall be permitted in a courtroom or adjacent areas in any proceeding or during recesses in the proceeding in a trial court, the court of appeals, or the supreme court. These provisions do not apply to a courtroom which the administrative director has designated as a media courtroom.

(i) Audio Pickup. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility. The court will provide audio connections for the media at microphone level output.

(j) Pooling. "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 court or court personnel to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of media agreement on disputed equipment or personnel issues, the court shall exclude all contesting media from a proceeding.

(k) Audio Recording. Audio recording of court proceedings shall be permitted in all court proceedings open to the public, unless the judge presiding at the proceeding determines that the equipment produces a distracting sound or is otherwise obtrusive.

2. Sound and Light Criteria.

(a) Type of Television and Audio Equipment Allowed. Only television and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. If the judge presiding at a proceeding determines on motion of the parties or on the judge's own motion that the equipment produces distracting sound or light, the judge shall order coverage to cease until the distraction has been eliminated. No artificial lighting device of any kind shall be employed in connection with a television camera, and no camera shall give any indication of whether it is or is not operating, such as by use of a red light to note operational status.

(b) Type of Photography Equipment Allowed. Electronic flash or flash cubes, as well as motorized cameras, are prohibited from use in any proceeding.

3. Location of Equipment and Personnel.

(a) Television Equipment. Television camera equipment shall be positioned in such location or locations in the courtroom or adjacent areas as shall be designated by the judge presiding at the proceeding or the judge's designee.

(b) Still Photography. A still camera photographer shall position himself or herself in a location in the courtroom or adjacent areas as shall be designated by the judge presiding at the proceeding or the judge's designee, and shall take photographs only from that location. The photographer's movements while taking pictures should be unobtrusive, and he or she should not, for example, assume body positions which would be inappropriate for other spectators.

(c) Radio Broadcast Audio Equipment. Radio broadcast audio equipment shall be positioned in such location or locations in the courtroom or adjacent areas as shall be designated by the judge presiding at the proceeding or the judge's designee.

4. Movement of Equipment During Proceedings.

Television and audio equipment and tripod-mounted still cameras shall not be placed in or removed from the courtroom except prior to commencement or after adjournment of proceedings each day, or during a recess.

5. Conference of Counsel.

To protect the attorney-client privilege and the effective right to counsel, there shall be no broadcast of conferences which occur in the courtroom or the court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the judge held at the bench. As a further precaution, due to the sensitivity of courtroom recording equipment the judge presiding at the proceeding may inform counsel at the outset of the proceeding that the court will entertain requests from counsel to go off record for attorney-client conferences.

6. Behavior and Dress.

Media representatives will be expected to present a neat appearance in keeping with the dignity of the proceedings and will be expected to be sufficiently familiar with court proceedings to conduct themselves so as not to interfere with the dignity of the proceedings, or to distract counsel or the court.

7. Credentials.

Media coverage under this plan shall be allowed only by members of the working press and other media representatives. Media representatives shall present their credentials upon request. Before coverage will be allowed, media representatives shall obtain identification from the area court administrator for the judicial district or the clerk of court in which the proceeding occurs after presenting such credentials as may be requested. Identification shall be worn at all times when covering judicial proceedings.

8. Procedures for Obtaining Approval.

(a) Request to Cover a Trial Court Proceeding. Media personnel desiring to cover a proceeding before a trial court shall submit a request to the judge presiding at the proceeding on a form provided by the area court administrator's office. The judge shall forward a copy of the request and the judge's decision whether to permit coverage to the area court administrator, the administrative director and the Alaska Judicial Council. If no judge has been assigned to the proceeding the request shall be submitted to the area court administrator and shall be forwarded to the judge immediately after assignment is made. Once a judge has approved a coverage request, the proceeding will be open for coverage by all media within the limits set forth in this plan.

(b) Request to Cover Proceedings Involving Sexual Offenses or Family Matters. When media personnel request permission to cover a proceeding involving a sexual offense, the judge shall contact the prosecutor to determine whether the victim consents to coverage. When media personnel request permission to cover a matter involving juveniles, divorce, dissolution of marriage, domestic violence, child support, child

custody and visitation, adoption, paternity, or other family matters, the judge shall contact counsel to determine whether the parties consent to coverage.

(c) Request to Cover Appellate Procedures. Media personnel desiring to cover a supreme court or court of appeals proceeding shall submit a request to the court through the office of the clerk of the appellate courts on a form to be provided by the appellate clerk's office.

(d) Required Contact with Court Staff. Television and radio media personnel shall contact the clerk of the court where the proceeding will take place at least one day in advance of proposed coverage to insure that coverage will be in accordance with this plan. This provision shall be waived only by the administrative director or the judge who would preside at the proceeding.

9. Cessation of Coverage.

In any judicial proceeding for which media coverage has been approved, the court may on the motion of either party or on its own motion order media coverage or photography to cease as to any portions of the proceeding when the interest of justice requires. If approval to cover a proceeding has been granted, the court may place limitations on media coverage of activity in the courtroom or areas adjacent to the courtroom during recesses in the proceeding or at any other time.

10. Liaison.

The area court administrator shall maintain communication and liaison with media representatives with respect to coverage of trial court proceedings to insure smooth working relationships. The clerk of the appellate court shall provide such liaison with respect to coverage of supreme court or court of appeals proceedings.

11. Suspension of Media Coverage Privileges.

If the judge presiding at a proceeding determines that an individual or organization has violated any provision of the media plan, the judge may recommend to the administrative director that the individual's or organization's media coverage

privileges be suspended for a period of up to one year. The judge shall notify the individual or organization by certified mail of the recommendation and the reasons which support it. The individual or organization shall have five working days from receipt of the notice to respond in writing to the administrative director. The director shall send notice to the judge and the individual or organization of the director's decision within five working days.