

OFFICE OF
APPELLATE COURTS

OCT 3 1988

FILED

No. C7-81-300
STATE OF MINNESOTA
IN SUPREME COURT

In Re

Modification of Canon 3A(7) of the
Minnesota Code of Judicial Conduct

PETITION FOR MODIFICATION
OF CANON 3A(7) OF THE
MINNESOTA CODE OF
JUDICIAL CONDUCT

Minnesota Joint Media Committee,
Petitioner.

For its petition to this Court, Petitioner alleges as follows:

1. Petitioner is an association whose members include media organizations who have been active in the debate over Rule 3A(7). Those members include:
 - WCCO Television, Inc., WCCO Radio, Inc., and WCCO-FM, Inc. are subsidiaries of Midwest Communications, Inc. They respectively operate a television station and AM and FM radio stations in the Minneapolis-St. Paul area;
 - Northwest Publications, Inc. publishes the St. Paul Pioneer Press Dispatch, a daily newspaper circulated throughout the State of Minnesota;
 - Star Tribune publishes the Star Tribune, a daily newspaper circulated throughout the State of Minnesota;

- KARE Television, Inc. operates a television station in the Minneapolis-St. Paul area;
- United Television, Inc. operates a television station (KSMP-TV) in the Minneapolis-St. Paul area;
- Twin Cities Public Television, Inc. operates television stations (KTCA-TV and KTCI-TV) in the Minneapolis-St. Paul area, and produces television programming seen throughout Minnesota;
- Minnesota Public Radio operates AM and FM radio stations (KSJN-AM and KSJN-FM) in the Minneapolis-St. Paul area, and produces radio programming heard throughout Minnesota;
- Northwest Broadcast News Association is a non-profit association whose members include representatives of news departments of radio and television stations located in the Upper Midwest, including stations serving the State of Minnesota;
- Minnesota Newspaper Association is a non-profit association whose members include newspapers published in the State of Minnesota; and
- Sigma Delta Chi/Society of Professional Journalists is an organization whose members include those involved in the journalism and public relations profession, both as practitioners and teachers.

JURISDICTION

2. Pursuant to Article VI of the Constitution of the State of Minnesota, and the provisions of Minn.Stat. §§480.05 and 480.051, this Court has the power to prescribe, amend and modify the rules of practice before it, and to regulate the practice and procedure in all courts of this state.
3. Petitioners seek an Order modifying the Code of Judicial Conduct, promulgated by this Court, and, in order to present this issue to the Court for its determination, seek a suspension of the rules of practice, and seek further proceedings as this Court may see fit.

BASIS FOR PETITION

4. On March 18, 1981, several of the above-named Petitioners filed a petition to modify Canon 3A(7) of the Minnesota Code of Judicial Conduct to permit audio and video coverage of trial court proceedings in Minnesota courts.
5. This Court, after a public hearing, on August 10, 1981, established a commission to prepare findings of fact and recommendations concerning the use of broadcast and photographic equipment in the courts of the State of Minnesota.
6. Thereafter, the commission designated as "The Minnesota Advisory Commission on Cameras in the Courtroom" held hearings, and filed its report dated January 12, 1982, recommending that cameras and microphones be allowed in Minnesota trial courtrooms under certain conditions.

7. On June 4, 1982, this Court held a public hearing to determine whether the recommendation of the Commission should be adopted, and if so, to what extent.
8. On April 18, 1983, this Court issued an Order which held in part that the Petitioners had failed to sustain their burdening of proving that they were entitled to the relief they sought. However, the court stated that it believed that further study was called for, and therefore adopted the recommendation that audio and video coverage of state court proceedings be allowed on an experimental basis.
9. The pertinent parts of the experimental period were as follows:
 - A. The period would extend from the date of the order.
 - B. Standards of Conduct and Technology were attached to the Order governing the number of cameras allowed, their placement, lighting arrangements, pooling arrangements, and the like.
 - C. Because the Court insisted that participation be voluntary, it held that audio and video coverage would not occur without the consent of the trial judge and all parties to the proceeding. Coverage of any witness objecting thereto in writing would not be allowed.
 - D. Coverage of certain proceedings, such as voir dire and those outside the presence of the jury would not be allowed.
 - E. There would be no coverage of the jury at any time, nor would coverage of various proceedings deemed sensitive by the Court be allowed.

10. Thereafter, Petitioners and their counsel met with representatives of the bench of Hennepin and Ramsey Counties. On their own motions those courts established committees to deal with representatives of Petitioners in arranging procedures to implement the experiment.
11. During the next few months, certain Petitioners sought audio and video access to various proceedings. Generally, those proceedings included criminal trials, civil trials and some pre-trial proceedings. Petitioners were allowed access to a few proceedings, however, Petitioners were denied access in an overwhelming number of proceedings, because of the refusal of one of the parties to consent to audio and video coverage.
12. As a general matter, defendants refused to consent to coverage in criminal trials. In civil cases in which Petitioners sought consent, again generally, plaintiffs refused to grant such consent. In almost all situations where consent was sought by Petitioners, the trial judges endorsed the purpose of the experiment, and left it to the parties to determine whether they would consent.
13. The two-year experiment period expired on April 18, 1985. On August 21, 1985, this Court extended the experimental period to April 18, 1987. No further extensions were ordered.

PETITION

WHEREAS, Petitioners believe that cameras and microphones should be available to them in carrying out their coverage of the trial courts of the State of Minnesota, and

WHEREAS, The need for further study of the issue, the need for which is recognized in this Court's Order of April 18, 1983, continues to exist, and

WHEREAS, No such coverage is presently available, and

WHEREAS, No such coverage will be available if it is required that all parties to a proceeding must consent to such coverage, and,

WHEREAS, Similar coverage is now routine in 24 states, and

WHEREAS, The responses of those who have participated in the few cases in which coverage has been allowed have been overwhelmingly positive.

THEREFORE, Petitioners respectfully request the following from this Court:

1. That this Court waive compliance with Canon 3A(7) of the Minnesota Code of Judicial Conduct to permit audio and video coverage of Minnesota trial court proceedings for a further experimental period.
2. That this experimental period be limited to a short, defined period of time during which information may be gathered for further review.
3. That this period extend for no more than twelve months.
4. That the rules provided for in the Order of April 18, 1983, be amended to delete Rule No. 2 which stated as follows:
 2. Participation by the court and parties in this experimental program shall be voluntary. Consequently, there shall be no audio or video coverage of any trial court proceeding without the consent of the trial judge and all parties in writing or made on the record prior to the commencement of the trial.

5. That the rules provided for in the Order of April 18, 1988, be amended to delete Rule No. 4, which stated as follows:
 4. There shall be no audio or video coverage of any witness who objects thereto in writing or on the record before testifying.
6. That the Court set a time during which written comments regarding this petition may be submitted by any interested parties.
7. That the Court, if it is deemed appropriate, set on a time and date for public hearing at which interested parties will be encouraged to present argument to this Court.
8. That this Court fashion such other relief as it deems just and necessary.

Dated: October 3, 1988

Respectfully submitted,

ATTORNEYS FOR PETITIONER



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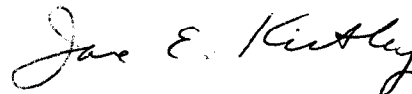
To Whom It May Concern:

In Re Modification of Canon 3A(7)
of the Minnesota Code of Judicial
Conduct to Allow a Period of
Experimental Audio and Video Coverage
of Certain Trial Court Proceedings

The Reporters Committee for Freedom of the Press submits the enclosed comments and asks that they be considered with regard to matter described above.

Thank you for the opportunity to present these views.

Sincerely,



Jane E. Kirtley
Executive Director

Steering Committee
WASHINGTON
David Beckwith
*Time Magazine
Hodding Carter
*MainStreet
Ed Fouhy
*NBC News
Sara Fritz
*Los Angeles Times
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