

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 04-9099


APPROVAL OF RULE ESTABLISHING GUIDELINES FOR PHOTOGRAPHING, RECORDING AND BROADCASTING IN COURTROOM OF THE 402ND JUDICIAL DISTRICT COURT, WOOD COUNTY, TEXAS

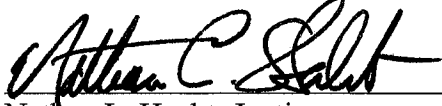
ORDERED that:


Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the attached rules submitted to this Court by G. Timothy Boswell, judge of the 402nd Judicial District for Wood County.

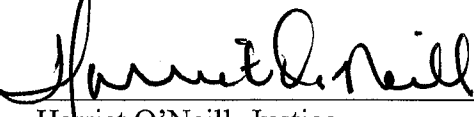
This Order shall be effective when recorded in the Minutes of the District Clerk of Wood County.

SIGNED AND ENTERED this 10th day of May, 2004.



Thomas R. Phillips, Chief Justice



Nathan L. Hecht, Justice

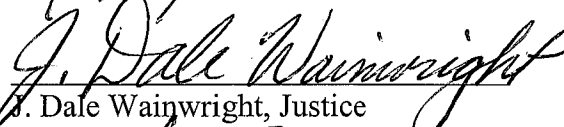

Priscilla R. Owen, Justice

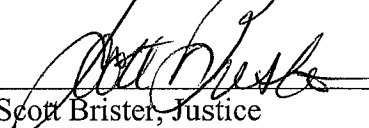

Harriet O'Neill, Justice


Wallace B. Jefferson, Justice


Michael H. Schneider, Justice


Steven Wayne Smith, Justice


J. Dale Wainwright, Justice


Scott Brister, Justice

Misc. Docket No. 04-9099

ORDER AND GUIDELINES FOR
PHOTOGRAPHING, RECORDING AND BROADCASTING
IN COURTROOM
IN THE 402ND JUDICIAL DISTRICT COURT
WOOD COUNTY, TEXAS

FILED

2003 JAN 31 PM 1:55
NOVIS WISDOM CLERK
DISTRICT COURT
WOOD COUNTY, TEXAS

I. POLICY STATEMENT:

It is the constitutional policy of the United States of America and of the State of Texas that the rights of the people to freedom of the press and freedom of speech shall be jealousy guarded. It is our constitutional protections and responsibility which secure the blessing of liberty so sacred to a free people.

The 402nd District Court sitting in and for Wood County, Texas, consistent with the recent changes in the Texas Code of Judicial Responsibility, amended Rules of Civil Procedure, and public policy considerations for the facilitation of the free flow of information to the public concerning the Texas judicial system, as well as the court's responsibility for the enhanced education of the public regarding the administration of justice, does hereby adopt the following Orders and Guidelines for Photographing, Recording and Broadcasting in the Courtroom (hereinafter referred to as "Guidelines"), subject to the approval and promulgation of the Texas Supreme Court for the provisions applicable to civil cases.

These guidelines will be interpreted by the Court to provide the greatest access possible while, at the same time, maintaining the dignity, decorum, privacy considerations, and impartiality of the court proceedings, and said guidelines are subject to immediate change and modification as deemed necessary to assure justice in the sole discretion of the trial court.

II. DEFINITIONS

The following definitions apply to these guidelines and to any and all consent forms and orders which refer or are applicable to these guidelines.

- (1) "Media Coverage" means any visual or audio coverage of court proceedings by a media agency or such coverage of the conduct or comment of any individual in the courtroom during, prior to, and/or following said courtroom proceeding.
- (2) "Visual Coverage" is coverage by equipment which has the capacity to reproduce or telecast an image, and includes still and moving picture photographic equipment and video equipment.
- (3) "Audio Coverage" is coverage by equipment which has the capacity to reproduce or broadcast sounds, and includes tape and cassette or other sound recorders, and radio and video equipment.
- (4) "Media" or "media Agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, in-house publication, profession journal, or other news reporting or news gathering agency.
- (5) "Trial Court" or "Court" means the 402ND Judicial District sitting in Wood County, Texas.

III. MEDIA COVERAGE

IT IS THE ORDER OF THE COURT THAT:

A. CIVIL CASES -

Media coverage is allowed in the courtroom in civil cases only as permitted by Rule 18c of the Texas Rules of Civil Procedure and these Guidelines.

If media coverage is of investiture or ceremonial proceedings as allowed by Rule 18c(c) of the Texas Rules of Civil Procedure, permission for, and the manner of such coverage are determined solely by the trial court, with or without guidance from these Guidelines. If media coverage is for other than investiture or ceremonial proceedings, that is, under Rule 18c(a) or (b) of the Texas Rules of Civil Procedure, the provisions of these Guidelines shall govern.

Whether or not consent of the parties or witnesses is obtained, the court may, in its discretion grant, deny, limit, or terminate media coverage. In exercising such discretion the court shall consider all relevant factors, including, but not limited to, those listed below in these guidelines.

Media Coverage under Rule 18c(a) and (b) of the Texas Rules of Civil Procedure is permitted only on written order of the trial court. A request for an order shall be made on the form included in these Guidelines. The following procedure shall be followed, except in extraordinary circumstances and only then if there is a finding by the court that good cause justifies a different procedure:

- (i) The request should be filed with the district clerk, with a copy delivered to the trial court and

- (ii) such request shall be made at least thirty (30) minutes prior to the court proceeding the media desires to cover.

The court shall rule upon said request without hearing, but shall inform the parties and/or counsel of such request or order and allow argument on any objection to such media coverage. Following any objection and argument the Court may decline to withdraw its order allowing media coverage; may amend such order and set out any conditions or limitations to the coverage as deemed necessary by the court; or may withdraw its order and not allow such media coverage.

MEDIA COVERAGE WITH CONSENT: If media coverage is sought pursuant to Rule 18c(b) of the Texas Rules of Civil Procedure, the consent forms included in these Guidelines shall be used to evidence the consent of the parties and witnesses. Original signed consent forms of the parties shall be attached to an filed with the Request for Order. Consent forms of the witnesses shall be obtained in the manner directed by the trial court.

It is ORDERED that no witness or party shall give consent to media coverage in exchange for payment or other consideration of any kind or character, either directly or indirectly. It is further ORDERED that no media agency, organization or individual shall pay or offer to pay any consideration in exchange for such consent.

MEDIA COVERAGE WITHOUT CONSENT: If media coverage is sought without consent of the parties or witnesses, pursuant to Rule 18c(a) of the Texas Rules of Civil Procedure, the decision to allow such coverage is discretionary with the trial court and will be made by the trial judge on a case by case basis.

In determining an application for coverage, the court shall consider all relevant factors, including but not limited to:

- (1) the type of case involved;
- (2) whether the coverage would cause unfair harm to any participants;
- (3) whether the coverage would interfere with the fair administration of justice, the advancement of a fair trial, or the rights of the parties;
- (4) whether the coverage would interfere with any law enforcement activity;
- (5) the objections of any of the parties, prospective witnesses, victims, or other participants in the proceedings of which coverage is sought;
- (6) the physical structure of the courtroom and the likelihood that any equipment required to conduct coverage of proceedings can be installed and operated without disturbance to those proceedings or any other proceedings in the courthouse;
- (7) the extent to which the coverage would be barred by law in the judicial proceeding of which coverage is sought; and
- (8) the fact that any party, prospective witness, victim, or any other participant in the proceeding is a child, to which fact the court shall give great weight.

The existence of any one or more of the said considerations shall not necessarily result in prohibition of media coverage, but the court shall consider all relevant factors and give such weight to such factors as the court deems necessary and proper.

B. CRIMINAL CASES -

Media coverage is allowed in the courtroom in criminal cases only as permitted by the trial court.

Whether or not consent of the parties or witnesses is obtained, the court may, in its discretion grant, deny, limit, or terminate media coverage. In exercising such discretion the court shall consider, and give such weight as the trial court, in its sole discretion, deems necessary, all relevant factors, including, but not limited to, those listed below in these Guidelines.

Media Coverage pursuant to the discretion of the trial court is permitted only on written order of the trial court. A request for an order shall be made on the form included in these Guidelines. The following procedure shall be followed, except in extraordinary circumstances and only then if there is a finding by the court that good cause justifies a different procedure:

- (i) The request should be filed with the district clerk, with a copy delivered to the trial court and
- (ii) such request shall be made at least thirty (30) minutes prior to the court proceeding the media desires to cover.

The court shall rule upon said request without hearing, but shall inform the parties and/or counsel of such request or order and allow argument on any objection to such media coverage. Following any objection and argument the Court may decline to withdraw its order allowing media coverage; may amend such order and set out any conditions or limitations to the coverage as deemed necessary by the court; or may withdraw its order and not allow such media coverage.

It is ORDERED that no witness or party shall give consent to media coverage in exchange for payment or other consideration of any kind or character, either directly or indirectly. It is further ORDERED that no media agency, organization or individual shall

pay or offer to pay any consideration in exchange for such consent.

If media coverage is sought, and any party or witness objects to such coverage, the decision to allow such coverage is discretionary with the trial court and will be made by the trial judge on a case by case basis.

In determining an application for coverage, the court shall consider all relevant factors, including but not limited to:

- (1) the type of case involved;
- (2) whether the coverage would cause unfair harm to any participants;
- (3) whether the coverage would interfere with the fair administration of justice, the advancement of a fair trial, or the rights of the parties;
- (4) whether the coverage would interfere with any law enforcement activity;
- (5) the objections of any of the parties, prospective witnesses, victims, or other participants in the proceedings of which coverage is sought;
- (6) the physical structure of the courtroom and the likelihood that any equipment required to conduct coverage of proceedings can be installed and operated without disturbance to those proceedings or any other proceedings in the courthouse;
- (7) the extent to which the coverage would be barred by law in the judicial proceeding of which coverage is sought;
- (8) security concerns for any party, witness, counsel, juror, or other persons in the courtroom;
- (9) privacy concerns for victims of sexual offenses; and

- (10) the fact that any party, prospective witness, victim, or any other participant in the proceeding is a child, to which fact the court shall give great weight.

The existence of any one or more of the said considerations shall not necessarily result in prohibition of media coverage, but the court shall consider all relevant factors and give such weight to such factors as the court deems necessary and proper.

IV. PROHIBITED MEDIA COVERAGE - CIVIL AND/OR CRIMINAL CASES

It is Ordered that media coverage of proceedings held in chambers, proceedings closed to the public, and jury selection is prohibited. It is further Ordered that audio coverage and close-up video coverage of conferences between an attorney and client, witness or aide, between attorneys, or between counsel and the court at the bench is prohibited. It is further Ordered that visual coverage of potential jurors and juror in the courthouse is prohibited.

It is Ordered that media coverage of any victim of a sexual offense or of any witness, party, or other court participant under the age of 18 years is strictly prohibited.

V. EQUIPMENT AND PERSONNEL

The Court may require media personnel to demonstrate that proposed equipment complies with these Guidelines. The Court may specify the placement of media personnel and equipment to permit reasonable coverage without disruption to the proceedings.

Unless the court in its discretion and for good cause orders otherwise, it is Ordered that the following Guidelines apply:

1. One television camera and audio equipment which does not produce distracting sound or light is permitted.

2. One still photographer, with not more than two cameras and four lenses, which does not produce distracting sound or light are permitted.
3. Equipment shall not produce distracting sound or light. Signal lights or devices which show when equipment is operating shall not be visible. Moving lights, flash attachments, or sudden lighting changes shall not be used.
4. Existing courtroom sound and lighting systems shall be used without modification. An order granting permission to modify existing systems is deemed to require that the modifications be installed, maintained, and removed without public expense. Microphones and wiring shall be unobtrusively located in places approved by the court and shall be operated by one person.
5. Operators shall not move equipment or enter or leave the courtroom while the court is in session, or otherwise cause a distraction. All equipment shall be in place in advance of the proceeding or session. Operators shall assume fixed positions within the designated areas and shall not move about in any way as to attract attention through further movement. Still photographers shall not be permitted to move about in order to photograph court proceedings.
6. Identifying marks, call letters, words and symbols shall be concealed on all equipment. Media personnel shall not display any identifying insignia on their clothing.

VI. DELAY OF PROCEEDING

It is Ordered that no proceeding or session shall be delayed or continued for the sole purpose of allowing media coverage, whether because of installation of equipment, obtaining witness consents, conduct of hearings related to the media coverage or other media coverage questions.

To assist media agencies to prepare in advance for media coverage, and when requested to do so, (i) the trial court will attempt to make the courtroom available when not in use for the purpose of installing equipment; (i) the trial court will attempt to make the courtroom available when not in use for the purpose of installing equipment; (ii) counsel (to the extent they deem their client's rights will not be jeopardized) should make available to the media witness lists; (iii) and the court administrator, upon specific request, will inform the media agencies of settings of proceedings.

VII. POOLING

It is Ordered that if more than one media agency of any type wish to cover a proceeding or session, they shall make their own pooling arrangements, without calling upon the court to mediate any dispute. If they are unable to agree, the court may deny media coverage by that type of media agency. Any media representative who has obtained court permission for coverage shall pool its tape or photographs at the request of other media representatives without requiring said other representatives to obtain further court approval.

IX. OTHER VISUAL OR AUDIO COVERAGE

It is Ordered that any other visual or audio coverage of court proceedings is strictly prohibited unless specifically authorized by the court.

X. OFFICIAL RECORD

It is Ordered that the official court record of any proceeding is the transcript of the original notes of the court reporter made in open court. Films, videotapes, photographs or audio reproductions made in the proceeding pursuant to these Guidelines shall not be considered as part of the official court record.

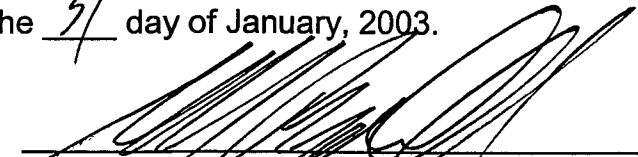
XI. SANCTIONS FOR VIOLATION

All persons, agencies, and/or organizations affected by this order are hereby informed that violations of this court may result, in the trial court's discretion, in one or more of the following sanctions being imposed:

1. Prohibition of the photographing, recording and broadcasting of said proceeding;
2. Prohibition of the violating agency from participating in the pooling of any photographing, recording and broadcasting of said proceeding;
3. Temporary or Permanent expulsion of said violating agency from photographing, recording and broadcasting of any proceedings in the court and the participating of any pooling of same;
4. Contempt of court finding whereupon the court may assess a fine not to exceed \$500.00 and may assess confinement in the county jail for a term not to exceed six (6) months;
5. Confiscation of any video, audio, and/or photographic recording taken in violation of the court's Order; and
6. Any such other Orders, relief, or penalty deemed by the Court to be just, equitable, and necessary.

Each media agency shall sign an acknowledgement that they have received a copy of these Orders and Guidelines, that they have read and understand same, and that they expressly agree to abide by the terms and conditions set out in these Orders and Guidelines and such other requirements set out by the Court. Said acknowledgement must be signed and filed with the court prior to said media agency being permitted to participate in the privileges set out in these Orders.

SIGNED AND ORDERED, this the 31 day of January, 2003.



HONORABLE G. TIMOTHY BOSWELL
Judge, 402nd Judicial District
Wood County, Texas

CAUSE NUMBER _____

§ IN THE DISTRICT COURT OF

§
VS. § WOOD COUNTY, TEXAS

§

§ 402nd JUDICIAL DISTRICT

REQUEST FOR ORDER TO ALLOW MEDIA COVERAGE

Pursuant to the Court's Order and Guidelines for Photographing, Recording and Broadcasting in the Courtroom (hereinafter referred to as "Guidelines"), executed by the Court on the ____ day of January, 2003, and applicable provisions of law, if any, I request permission to install equipment and personnel for the purpose of media coverage of the above described case in the 402nd Judicial District Courtroom in Wood County, Texas on the following date:

_____, 20____

I, individually, and on behalf of the personnel of the media agency I represent and all media personnel who participate in media coverage through pooling agreement, understand and agree that:

(1) All media personnel covering the proceeding will comply with the provision of the Court's Order and Guidelines, executed by this Court and such other Orders and requirements made by the court, as well as any applicable provisions of law;

(2) Permission may be withdrawn by the Court at any time pursuant to the guidelines or pursuant to the Order of the Court, at which time media coverage will immediately cease.

(3) Violation of the Court's Orders and guidelines may result in such sanctions as set out in the Court's Order and guidelines, and such other sanctions as the court may deem just and necessary.

() (4) CHECK IF APPLICABLE: Further, this request is made pursuant to Rule 18c(b) of the Texas Rules of Civil Procedure, with written consent of each party having been obtained, the originals of which are attached to this form. There will be no audio or visual coverage of the testimony of any witness unless consent of that witness has been obtained in the manner required by the court and filed with the District Clerk, with a copy

delivered to the trial court, as required by Rule 18c(b) of the Texas Rules of Civil Procedure.

The original of this request is filed with the District Clerk, with a copy delivered to the trial court on this the _____ day of _____, 20____, at _____ a.m.

Individual - Signature

Individual - Print Name

Name of Media Agency

Position with such Agency

Address, Street, City, Zip

Phone

Name of Supervisor

CAUSE NUMBER _____

_____ § IN THE DISTRICT COURT OF
_____ §
VS. § WOOD COUNTY, TEXAS
_____ §
_____ § 402nd JUDICIAL DISTRICT

ORDER ALLOWING MEDIA COVERAGE

The request for an Order to allow media coverage filed with the District Clerk in the above numbered and entitled cause on the ____ day of _____, 20__ by _____ is hereby GRANTED / DENIED
SIGNED THIS THE ____ DAY OF _____, 20__ AT _____
____.M.

HONORABLE G. TIMOTHY BOSWELL
Judge, 402ND District Court
Wood County, Texas

RECEIPT, ACKNOWLEDGEMENT, AND AGREEMENT TO
TERMS AND CONDITIONS OF
ORDER AND GUIDELINES FOR
PHOTOGRAPHING, RECORDING AND BROADCASTING
IN COURTROOM

402nd JUDICIAL DISTRICT COURT
WOOD COUNTY, TEXAS

I, _____, in my individual capacity, as a duly authorized agent for _____ (name of media agency), hereby acknowledge I have this date received a true and correct copy of the Order and Guidelines for Photographing, Recording and Broadcasting in Courtroom (hereinafter referred to as "Guidelines"), executed by the 402nd District Court. I further state that I have read and understand all the terms, conditions, and provisions of said Order and guidelines. I further specifically agree to abide by all the terms and conditions, and provisions of said Order and guidelines and such other orders which the Court may enter with respect to the privilege to photograph, record, and broadcast in the 402nd District Courtroom.

SIGNED this the ____ day of _____, 20__.

Individual - Signature
Individually and in my duly authorized representative capacity as _____ of
the Media Agency _____

Individual - Print Name

Address, Street, City, Zip

Name of Supervisor, if any

Phone