CAMERAS IN ALABAMA COURTROOMS

Trial and appellate courtroom coverage is permissible if the Supreme Court of Alabama has approved a plan for the courtroom in which coverage will occur. The plan must contain certain safeguards to assure that coverage will not detract from or degrade court proceedings, or otherwise interfere with a fair trial. If such a plan has been approved, a trial judge may, in the exercise of "sound discretion" permit coverage if: (1) in a criminal proceeding, all accused persons and the prosecutor give their written consent and (2) in a civil proceeding, all litigants and their attorneys give their written consent. Following approval of their coverage plans, appellate courts may authorize coverage if the parties and their attorneys give their written contexts, the court must halt coverage during any time that a witness, party, juror, or attorney expressly objects. In an appellate setting, it must also halt coverage during any time that a judge expressly objects to coverage.

Authority: <u>Canon 3A(7)</u>, <u>3A(7A)</u>, <u>and 3A(7B)</u>, <u>Alabama Canons of Judicial Ethics</u>, <u>Ala.</u> <u>Code</u>, <u>Vol. 23A</u> (<u>Rules of Alabama Supreme Court</u>).

(7) A trial judge or an appellate court should prohibit broadcasting by television or radio, recording or taking of photographs in the courtroom unless the trial judge or appellate court determines that such should be allowed in accordance with the provisions of (7A) or (7B); however, a trial judge or appellate court may, in the exercise of sound discretion, authorize:

(a) 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) The broadcasting, televising, recording, or photographing of investitive, ceremonial, or nonjudicial proceedings;

(c) The photographic or electronic recording and reproduction of appropriate court proceedings for instructional or educational purposes under the following conditions:

(i) The means of recording will not distract participants or impair the dignity of the proceedings;

(ii) The parties have consented, and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproduction;

(iii) The reproduction will not be exhibited until after the proceedings have been concluded and all direct appeals have been exhausted; and (iv) The reproduction will be exhibited only for instructional or educational purposes.

(7A) A trial judge, in the exercise of sound discretion, may authorize the broadcasting, televising, recording or taking of photographs in a courtroom during a trial or other judicial hearing;

(a) Provided, the supreme court of Alabama has authorized a plan for the courtroom in which the photographing, recording or broadcasting by radio or television will occur. The authorized plan shall set forth the safeguards to ensure that such photographing, recording or broadcasting by radio or television of such proceedings will not detract from the dignity of the court proceedings, distract any witness from giving testimony, degrade the court, or otherwise interfere with the achievement of a fair trial and shall further set forth the places where cameras, lights, wires and transmitting devices may be located and other details, including, but not limited to, the area of movement of media personnel. Prior to the supreme court's approval of such a plan, a petition shall have been filed with the supreme court signed by the presiding judge of the circuit, the district attorney, president of the local bar association and the chairman of the county commission, which petition shall recommend safeguards and details designed to guarantee that the photographing, recording or broadcasting by television or radio will not (1) detract from the dignity of the court proceedings, (2) distract any witness in giving testimony, (3) degrade the court, or (4) otherwise interfere with the achievement of a fair trial.

(b) Provided further, if the case is a criminal proceeding, all accused persons who will be before the court during any such photographing, recording or broadcasting by television or radio, as well as the leading prosecuting attorney representing the state or the city, shall have affirmatively given their written consent to the photographing, recording or broadcasting by television or radio.

(c) Provided further, if the case is a civil proceeding, all litigants involved in the case and their respective leading attorneys shall have affirmatively given their written consent to the photographing, recording or broadcasting by television or radio.

However, the judge shall immediately suspend or stop any photographing, recording or broadcasting by television or radio at any time that a witness who is testifying, the parent or guardian of any testifying witness who is a minor, or a juror, party or attorney expressly objects to the photographing, recording or broadcasting by television or radio.

(7B) An appellate court may authorize the broadcasting, televising, recording or taking of photographs in a courtroom during a judicial hearing;

(a) Provided, the Supreme Court of Alabama has authorized a plan for the courtroom which shall contain safeguards to ensure that the photographing, recording or broadcasting by television or radio shall not detract from the dignity of the court

proceedings, degrade the court, distract any witness in giving testimony (if the case is one in which testimony is received), or otherwise interfere with the achievement of a fair and impartial hearing or trial, which plan shall set forth the location where cameras, lights, wires and transmitting devices may be located as well as other details, including the movement area for media personnel. Prior to the Supreme Court's approval of such a plan, a petition, signed by a majority of the members of the appellate court, shall be filed with the Supreme Court.

(b) Provided further, that the attorneys involved in the hearing or trial and the parties present shall have affirmatively given their written consent.

However, the appellate court shall immediately suspend or stop any photographing, recording or broadcasting by radio or television during any time that any witness who is testifying, the parent or guardian of a testifying witness who is a minor, attorney, party or judge, expressly objects to such photographing, recording or broadcasting by television or radio.

Commentary

"It is now universally recognized that the dignity of a church service is not affected in any degree by photographing or broadcasting by television or radio of a church service when sophisticated and advanced equipment and technology is used." "Photographing or broadcasting by television or radio of a church service will not distract any church participant or degrade the solemnity of the service if sophisticated and advanced technology is employed."

The above-quoted statements were part of the persuasive arguments made to the court at the hearing on the proposed canons of judicial ethics submitted by an advisory committee. The court was impressed with the arguments that modern, sophisticated equipment and technology are now available for broadcasting, televising, filming and photographing, which will not interfere with or detract from the dignity of a fair and impartial trial, and that instead of adopting absolute prohibitive language, the court should devise a canon by which photographing, recording or broadcasting by television or radio is permissible if such modern, sophisticated equipment and technology are used along with safeguards designed to prevent any interferences with the achievement of a fair and impartial trial.

In deliberating this canon, the court considered the First Amendment protection of the press, and the constitutional guarantees of a fair trial. Rather than deciding to completely prohibit all broadcasting, filming, recording, televising, and photographing the court has devised a system which would allow, under limited circumstances, the use of sophisticated equipment and advanced technology in photographing, filming, televising, recording and broadcasting of court proceedings. The canon still vests in the trial judge the final decision as to whether or not photographing, recording or broadcasting by television or radio will be allowed. It authorizes the trial judge, in the exercise of his sound discretion, to allow photographing, recording or broadcasting by television or radio if the Supreme Court has authorized a plan for the courtroom after a petition has been filed with the Supreme Court, signed by the presiding circuit judge, district attorney, local bar association president, and chairman of the county governing body. It is contemplated that the plan approved by the Supreme Court will provide safeguards to ensure that such activities by the media shall not detract from the dignity of the court proceedings, distract any witness from giving testimony, degrade the court, or otherwise interfere with the achievement of a fair trial. The plan will set forth places where the cameras, lights, wires and transmitting devices may be located and describe the sophisticated equipment and advanced technology to be employed.

Even if the Supreme Court approves such a plan and the trial judge is willing to allow such photographing, recording or broadcasting by television or radio in accordance with said plan, nevertheless, there are further requirements, including acquisition of the advance written consent of parties and attorneys, that must be met.

The canon provides a further safeguard in that witnesses, jurors, parties or attorneys may, at any time, suspend or stop any photographing, recording or broadcasting by television or radio by expressly objecting to the same.

Language in the proposed canon which would prohibit broadcasting, televising, recording or photographing in areas immediately adjacent to the courtroom was deleted.

The canon allows photographing, recording or broadcasting by television or radio in an appellate court under similar circumstances. See (7B).

The provisions of (7) place within the sound discretion of the trial judge or the appellate court the decision as to whether or not photographing, recording and broadcasting by television and radio will be allowed under the circumstances and situations outlined in its provisions. The prior approval of a plan by the Supreme Court is not required.