

In the Supreme Court of the State of Idaho

IN RE: AMENDMENTS TO IDAHO
COURT ADMINISTRATIVE RULES
45, 46a and 46b

ORDER

The Court, having reviewed a recommendation to amend the Idaho Court Administrative Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Court Administrative Rules be amended as follows:

Idaho Court Administrative Rule 45. Cameras in the Courtroom

(a) "Audio/visual coverage," as used in this rule, means broadcast, video, audio, and photographic coverage or recording of public proceedings before district and magistrate judges. Broadcast means the transmission of images or sounds by any electronic means, including but not limited to television, radio, Internet, email or streaming. Audio/visual coverage is authorized subject to the discretion of the presiding judge. The presiding judge maintains the right to limit audio/visual coverage of any public hearing when the interests of the administration of justice requires. Authorization may be revoked at any time, without prior notice, when in the discretion of the court it appears that audio/visual coverage is interfering in any way with the proper administration of justice.

(b) The presiding judge may, at his or her discretion, limit, restrict, or prohibit audio/visual coverage at any proceeding. Any decision regarding audio/visual coverage is not subject to appellate review.

(c) Audio/visual coverage of the following proceedings is prohibited:

(1) There shall be no broadcast, video or audio coverage or recording of conferences which occur in a court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the presiding judge held at the bench. There shall be no audio/visual coverage of notes upon the counsel table, nor of any exhibits before they are admitted into evidence.

(2) There shall be no audio/visual coverage of in-camera sessions or judicial deliberations.

(3) There shall be no audio/visual coverage of proceedings when they are closed to the public including adoptions, mental health proceedings, child protective act proceedings, termination of parent child relations, grand jury proceedings, issuance of arrest and search warrant proceedings

covered by Rule 32, Idaho Administrative Rules, or a comparable rule when the proceeding may be closed to effectuate the purposes of the rule.

(d) The presiding judge may exclude audio/visual coverage of a particular participant or direct that the identity or audio of a participant be concealed upon a determination that such coverage will have a substantial adverse effect upon a particular individual. It is expected the presiding judge will exercise particular sensitivity to victims of crime.

(e) The administrative district judge shall promulgate rules governing audio/visual coverage outside the courtroom in courthouses within the judicial district.

(f) It is the responsibility of each news representative present at the beginning of each session of court to achieve an understanding with all other representatives as to who will capture photos and/or recordings at any given time, or in the alternative, how they will pool their coverage. This understanding shall be reached outside the courtroom and without imposition upon the presiding judge or court personnel. The presiding judge shall not be called upon to resolve any disputes except to determine that if the news representatives cannot agree, the relevant photo, video or broadcast coverage will not take place.

(g) Approval of audio/visual coverage must be obtained in advance from the presiding judge.

(h) If audio/visual coverage is authorized, rules governing the media shall be established at each judge's discretion. An order permitting audio/visual coverage of court proceedings shall not include any restriction on the time when, the place where, or the manner in which the content of the audio/visual coverage may be aired or published. Audio/visual coverage may be authorized subject to the following guidelines:

(1) Jury -- Photographing or videotaping of the jury or jurors is prohibited, including during jury selection.

(2) Light -- Existing light only may be used for still photography or video coverage. Electronic flash or artificial lighting is prohibited.

(3) Camera Noise -- Camera noise and distractions shall be kept to a minimum.

(4) Still Photography -- Electronic flash is prohibited. Photographers must use quiet camera equipment to minimize distraction from the judicial proceedings.

(5) Video Coverage -- No video or television camera shall give any indication of whether it is operating.

(6) Audio -- Any audio equipment shall be placed as determined by the presiding judge. There shall be no broadcast of confidential communications. If there is coverage by both radio and television, the microphones used shall serve each system without duplication.

(7) Location -- Media shall be in a position at least 15 minutes before court begins. Media positions shall not change while court is in session. The specific location or locations of media must be approved in advance by the presiding judge or designee.

(8) Dress -- Media representation shall present a neat appearance and conduct themselves in keeping with the dignity of the court proceedings as determined by the presiding judge.

(9) Pooling of Coverage -- Only one still photographer and one camera operator providing video and/or broadcast coverage shall be permitted in the courtroom unless the presiding judge allows additional cameras. Any arrangements for pooling of either coverage must be made by the media organizations.

(140) Sharing of Pool Photography, Video and Broadcast Coverage -- Unless the presiding judge allows additional cameras, the pool photographer and the pool video and broadcast camera operator shall share their images and recordings with all news organizations that request them in a timely fashion. This includes all images and recordings captured in the courtroom by the pool operator(s), whether before, during or after the actual court proceedings.

(i) The presiding judge may require any media representative to demonstrate adequately in advance of a proceeding that the equipment to be used meets the standards of the rule.

(j) The public shall not be required to incur any expenses to accommodate cameras or other equipment covered by this rule. Any proposal by media representatives to modify existing facilities at media expense to accommodate use of equipment in the courtroom shall be submitted to the trial court administrator for the district. A final proposal shall be submitted to the administrative district judge for acceptance, modification or rejection. When planning courtroom construction or remodeling, consideration shall be given to accommodations that will provide broadcast and print media with reasonable access to court proceedings.

(k) The Media/Courts Committee shall evaluate audio/visual coverage on an ongoing basis, and at any time bring forth recommendations to amend this rule.

(l) The request for approval to video record, broadcast or photograph a court proceeding and order granting or denying such request should be in substantially the form approved by the Administrative Director of Courts.

Idaho Court Administrative Rule 46a. Cameras in the Supreme Court Courtroom.

Media coverage of public hearings and appeals before the Supreme Court and Court of Appeals in the Supreme Court courtroom in Boise are subject to the following guidelines:

(a) **AUTHORIZATION.** Approval to video record or photograph a Supreme Court or Court of Appeals proceeding must be obtained at least one business day in advance of the hearing. Permission must be obtained from the Chief Justice of the Supreme Court for Idaho Supreme Court proceedings, or the Chief Judge of the Court of Appeals for Idaho Court of Appeals proceedings, and will be limited to those approved by the respective Court. The request for approval to video record or photograph a court proceeding and order granting or denying such request should be in substantially the form approved by the Administrative Director of Courts.

(1) The above does not apply to the live broadcast of all Supreme Court proceedings provided on an ongoing basis by Idaho Public Television/Idaho In Session. These broadcasts and recordings are deemed approved in advance through adoption of this rule.

(2) As to requests for live coverage of a Supreme Court proceeding, preference will be given to restricting coverage to the Idaho Public Television broadcast, and Idaho Public Television will provide a video and audio feed to other media.

(b) **RECORDING.** Any recordings or broadcasts must originate from the audio system provided by the Court. No separate mikes will be allowed to be set up in the courtroom. The Court will provide a series of balanced line outlets for use with standard connections to connect to television cameras, radio broadcasting devices and recorders. In the event of demand greater than the outlets provided, media representatives will make pooling arrangements among themselves. No taping or recording of conversations between co-counsel or counsel and client is allowed.

(c) **OFFICIAL RECORD OF PROCEEDING.** The recording machine operated by the Clerk is the only official record of the appeal hearing, and no party shall cite in any court or administrative agency proceeding any other recording of the Supreme Court or Court of Appeals hearings.

(d) **MOVEMENT IN COURTROOM.** Media representatives are allowed to cover the proceedings from the courtroom floor as long as they remain in the area reserved for the general public and as long as they do not excessively move around the courtroom or assume body positions inappropriate to a courtroom proceeding or otherwise distract from the appellate proceedings.

(e) **LIAISON.** The Administrative Director of the Courts and/or the Clerk of the Supreme Court, working through the Court Communications Manager, shall maintain communication and liaison with media representatives so as to ensure smooth working relationships and to provide any suggestions to improve these guidelines.

(f) **INCORPORATION OF ICAR 45.** This rule hereby incorporates all guidelines on equipment, dress, pooling, limits on coverage, and other matters in Idaho Court Administrative Rule 45 that are relevant to appellate proceedings. In cases of conflict, this rule prevails for proceedings held within the Supreme Court courtroom. References to “presiding judge” in ICAR 45 will here mean the Chief Justice of the Supreme Court for Idaho Supreme Court proceedings, or the Chief Judge of the Court of Appeals for Idaho Court of Appeals proceedings.

Idaho Court Administrative Rule 46b. Cameras in Courtroom during Terms of Court Outside of Boise.

Media coverage of proceedings in the Supreme Court and the Court of Appeals outside of the Supreme Court courtroom in Boise are subject to the following guidelines:

(a) **AUTHORIZATION.** Approval to video record, broadcast or photograph a Supreme Court or Court of Appeals proceeding must be obtained at least one business day in advance of the hearing. Permission must be obtained from the Chief Justice of the Supreme Court for Idaho Supreme Court proceedings, or the Chief Judge of the Court of Appeals for Idaho Court of Appeals proceedings, and will be limited to those approved by the respective Court. The request for approval to video record, broadcast or photograph a court proceeding and order granting or denying such request should be in substantially the form approved by the Administrative Director of Courts.

(1) The above does not apply to any live broadcast of Supreme Court proceedings provided on an ongoing basis by Idaho Public Television/Idaho In Session. These broadcasts and recordings are deemed approved in advance through adoption of this rule.

(b) **BEHAVIOR.** Media representatives are allowed to cover the proceedings as long as they remain in the

area reserved for the general public, do not excessively move around the courtroom, or assume body positions inappropriate to a courtroom proceeding or otherwise distract from the appellate proceedings.

(c) OFFICIAL RECORD OF PROCEEDING. The recording machine operated by the Clerk is the only official record of the appeal hearing, and no party shall cite in any court or administrative agency proceeding any other recording of the Supreme Court or Court of Appeals hearings. No taping or recording of conversations between co-counsel or counsel and client is allowed.

(d) LIAISON. The Clerk of the Supreme Court or Court of Appeals and the Court Communications Manager shall maintain communication and liaison with media representatives so as to ensure smooth working relationships and to provide any suggestions to improve these guidelines.

(e) INCORPORATION OF ICAR 45. This rule hereby incorporates all guidelines on equipment, dress, pooling, limits on coverage, and other matters in Idaho Court Administrative Rule 45 that are relevant to appellate proceedings. In cases of conflict, this rule prevails for proceedings of the Supreme Court and Court of Appeals. References to “presiding judge” in ICAR 45 will here mean the Chief Justice of the Supreme Court for Idaho Supreme Court proceedings, or the Chief Judge of the Court of Appeals for Idaho Court of Appeals proceedings.

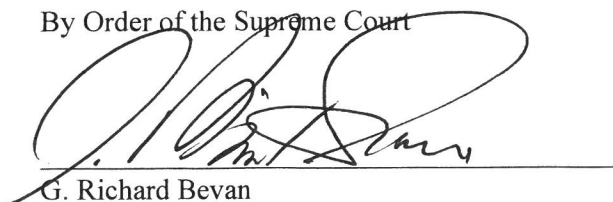
IT IS FURTHER ORDERED that this order and these amendments shall be effective January 9, 2023.

IT IS FURTHER ORDERED that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Court Administrative Rules.

IT IS FURTHER ORDERED, that notice of this Order shall be published for three consecutive weeks on the Idaho State Bar’s website and in its weekly E-Bulletin, and that as soon as practicable, a summary of the amendment(s) effected by this Order shall be published in one issue of *The Advocate*.

DATED this 6th day of January, 2023.

By Order of the Supreme Court


G. Richard Bevan

ATTEST:

Melanie Gagnepain, Clerk

I, Melanie Gagnepain, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
Certify that the above is a true and correct copy of the
Order entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court 1-6-23

Melanie Gagnepain, Clerk

By

Deputy