

IN THE ARKANSAS JUDICIAL DISCIPLINE & DISABILITY COMMISSION

IN RE: CIRCUIT COURT JUDGE WENDELL I. GRIFFEN JDDC CASE NO. 17-172

ORDER

Respondent, by motion, has requested the Commission, pursuant to Administrative Order No. 6, “to authorize broadcasting, recording, or recording in the hearing room and areas immediately adjacent thereto during sessions of the Commission regarding this matter, recesses between sessions, and otherwise, provided that the participants will not be distracted nor the dignity of the proceedings be impaired, . . .” *See Respondent Motion*, July 19, 2018. After considering the applicable law and the practice of the Commission in prior hearings, the Commission finds:

1. Use of cameras, tape recorders, cell phones, or other equipment to photograph, broadcast, record, e-mail, tweet, blog, or transmit by other means during court proceedings is governed by Administrative Order No. 6. D. Newbern, J. J. Watkins, D. P. Marshall, Jr., B. J. Harrison, 2 *Arkansas Civil Prac. & Proc.*, § 28:5, (5th ed.)

2. Administrative Order No. 6 provides: “(a) A judge **may** authorize broadcasting, recording, or photographing in the courtroom and areas immediately adjacent thereto during sessions of court . . .” *Id.* (emphasis added). The Order also provides for certain exceptions, which are not applicable to the present matter. Administrative Order No. 6 leaves to the discretion of the judge, and in this case the Commission, whether to authorize broadcasting or recording in the hearing room and areas adjacent to the hearing room. Neither Administrative Order No. 6, nor Arkansas law, support the contention that the First Amendment right of the news media to attend a trial includes the right to televise, record, or photograph the proceedings. *KARK-TV CHANNEL 4, INC. v. Floyd J. Lofton*, 277 Ark. 228, 640 S.W.2d 798 (1982).

3. Over the years since the creation of the Arkansas Judicial Discipline and Disability Commission, it has been the practice of the Commission to conduct judicial disciplinary hearings without permitting the presence of broadcasting, recording or photographing media in the hearing session. The Commission, however, has permitted broadcasting, recording or photographing in the immediate adjacent area to the hearing room, prior to the hearing, and during any recess of the hearing. The Commission considers this practice to comport with its goal to eliminate distractions and to avoid impairment of the dignity of the proceedings.

4. Thus, the Respondent’s motion requesting the Commission to authorize broadcasting, recording, or photographing in the hearing room and areas immediately adjacent thereto during sessions of the Commission regarding this matter, recesses between sessions, and otherwise, is

hereby DENIED, in part, and GRANTED, in part. Broadcasting, recording or photographing during the hearing session is DENIED; however, broadcasting, recording or photographing in the immediate adjacent area to the hearing room, prior to the hearing, and during recesses between sessions, is GRANTED.

5. Finally, this Order establishes the Commission's policy of prohibiting broadcasting, recording, or photographing during the hearing, but authorizing broadcasting, recording or photographing in areas immediately adjacent to the hearing room, prior to the hearing, and during recesses between sessions.

AT THE DIRECTION OF THE COMMISSION: IT IS SO ORDERED.

/s/ Marie-Bernarde Miller
Judicial Commission Counsel

DATED August 10, 2018