

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

January 30, 1998

Cecil W. Crowson
Appellate Court Clerk

IN RE: AMENDMENTS TO TENNESSEE)
RULES OF CRIMINAL PROCEDURE) No. _____
)

ORDER

The Court adopts the attached amendments effective July 1, 1998, subject to approval by resolutions of the General Assembly.

Enter this the 30th day of January, 1998.

FOR THE COURT:

E. Riley Anderson, Chief Justice

Amendment to Rules of Criminal Procedure
for use of Closed Circuit Television in
General Sessions Court

Rule 1 shall be amended by adding a new section (h) and by relettering the current section (h) as (i):

“(h) The use of electronic audio visual equipment to conduct initial appearances as provided by Rule 43.”

Rule 5 shall be amended to add a new section (f):

“(f) The presence of the defendant at the initial appearance shall be governed by the provisions of Rule 43 of the Tennessee Rules of Criminal Procedure.”

Rule 43 is amended by adding a new section (d):

“(d) The initial appearance of the defendant before the court pursuant to Rule 5 of the Tennessee Rules of Criminal Procedure may be through the use of an electronic audio visual device if: (1) the judge or magistrate, in the sound exercise of his or her discretion, determines that the use of such devices shall achieve the purposes of the Rules of Criminal Procedure, (2) the judge and the defendant are able to communicate and view each other simultaneously and converse with each other and be heard in the courtroom by members of the public, and (3) no plea is entered by the court except a plea of not guilty.”

Comment: These amendments permit general sessions court to use audio visual technology to conduct initial appearances where a plea of not guilty is entered by the defendant. Nothing in paragraph (d) prohibits the prosecutor or defense counsel from being present and heard. In addition, paragraph (d) does not apply to preliminary examinations pursuant to Rule 5.1 nor misdemeanor trials.

These amendments are substantially similar to Rule 5-303 of the New Mexico Rules of Criminal Procedure and Rule 10 of Hawaii Rules of Penal Procedure and reflect the growing need for the use of technology to expedite the processing of initial criminal proceedings and reduce the cost of such processing.

The purposes for the Rules, which these amendments are intended to achieve, are set forth in Rule 2: “.to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.”