



Advisory Committee on the Code of Judicial Conduct

Hon. Frank H. Allen, Jr. Chairman  
Hon. Thomas A. Donnelly  
Prof. William T. MacPhearson, Jr.  
Hon. Marie A. Baca

February 20, 1998

RE: Judicial Advisory Opinion 98-02

Dear

This opinion is in response to your inquiry of January 21, 1998, regarding whether you have discretion under the New Mexico Supreme Court Code of Judicial Conduct to permit live radio broadcasts from the courtroom during court proceedings.

The Code of Judicial Conduct does not supply an answer to your question, however, another Supreme Court Rule directly relates to your inquiry. Under Rule 8-102 NMRA 1998, you may not permit such broadcasts without the express approval of the Supreme Court. Rule 8-102(A) provides, in pertinent part:

The taking of photographs in the courtroom during the progress of judicial proceedings or during any recess thereof and the transmitting or sound recording of such proceedings for broadcasting by radio or television introduce extraneous influences which tend to have a detrimental psychological effect on the participants and to divert them from the proper objectives of the trial; and no such action shall be done or permitted except as provided by Rule 8-601 of these rules or upon express approval of the Supreme Court. [Emphasis added.]

See also The Municipal Benchbook: A Guide For New Mexico Municipal Judges 69 (New Mexico Mun. League & New Mexico Mun. Judges Ass'n eds., 1994) ("The rules

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provide that... recording the proceedings for broadcasting (by radio or television) are disruptive and have a detrimental effect on the participants. Such activities are not permitted unless the New Mexico Supreme Court has specifically approved of them."). Rule 8-601(D) NMRA 1998 allows the recording of proceedings in municipal courts only for the purpose of transcription,

Under Rule 8-102(B) NMRA 1998, nonjudicial, ceremonial proceedings may be broadcast from the courtroom with the permission and under the supervision of the court.

Although Rules 23-104 and 23-107 NMRA 1998 allow for the broadcasting, televising, photographing, and recording of court proceedings in the appellate, district, and metropolitan courts under certain circumstances, these rules, by their terms, are not applicable to the municipal courts.

Yours very truly,

Frank H. Allen, Jr.  
Chairman, Judicial Advisory Committee