

The Supreme Court of Ohio

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September 23, 2019

United States House Committee on the Judiciary
The Subcommittee on Courts, Intellectual Property, and the Internet
Committee Hearing Room
2141 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Johnson and Ranking Member Roby,

Please accept this letter as my support of video broadcast access in federal courts as you consider testimony during the hearing *The Federal Judiciary in the 21st Century: Ensuring the Public's Right of Access to the Courts*. As the Chief Justice of the Supreme Court of Ohio, I have seen firsthand how valuable cameras in the courtroom can be.

The Supreme Court of Ohio began live streaming its oral arguments in 2002. I firmly believe that access to those videos increases public trust and confidence in the court system as it provides anyone, anywhere, with an opportunity to watch those arguments thereby demystifying the work of the Court.

In addition to live streaming oral arguments, these videos are also archived for future use and can be a valuable educational tool. The Court just recently announced a new initiative, [Under Advisement](#), in which teachers lead high school students through an in-depth study of an already-decided Ohio Supreme Court case utilizing original materials, including video recordings of oral arguments. This innovative use of those video recordings is meant to strengthen a student's understanding of Ohio's court system. The lesson plans are free and were designed to align with Ohio's Learning Standards for the High School American Government Curriculum.

Furthermore, as you will see from the two enclosed letters to the editor as published by the *Los Angeles Times* and the *Columbus Dispatch*, I have been an advocate for live streaming in courtrooms for a number of years. Live streaming increases trust in judges, in our decisions, and in the rule of law.

It is my hope that the federal courts will follow suit and join many state courts, including the Supreme Court of Ohio, in broadcasting court proceedings. By doing so, the federal government can demonstrate its commitment to transparency and access to justice.

Sincerely,

A handwritten signature in black ink, appearing to read "Maureen O'Connor". The signature is fluid and cursive, with a large initial "M" and "O".

Maureen O'Connor
Chief Justice

Attachments

Los Angeles Times

Lights, camera, Supreme Court: It's about time

By MAUREEN O'CONNOR

DEC. 20, 2013

One of the top federal appeals courts this month took a major step forward in opening the historically opaque federal judicial system to the public by expanding the use of cameras. When will the Supreme Court follow suit and finally allow cameras in its courtroom?

The U.S. 9th Circuit Court of Appeals announced that starting this month it will allow live video streaming of all its *en banc* proceedings — those at which a full panel of judges is present. It has allowed live coverage only in selected cases in the past. Since 1996, federal appeals courts have been allowed to choose for themselves whether to broadcast proceedings, but very few have done so.

In taking this action, the 9th Circuit joins very good company. Every state Supreme Court allows cameras. And in November, Britain — whose legal establishment is so conservative that some judges and attorneys still wear powdered wigs — lifted its 88-year-old ban on cameras in its Court of Appeal. And its highest court began televising cases in 2009.

The U.S. Supreme Court is now one of the last major institutions of Western civilization that has not entered the 21st century technologically. I join with those in a growing movement calling on the justices to change that.

When Justice David H. Souter uttered his now-infamous declaration in 1996 that cameras would roll into the Supreme Court over his dead body, the Internet was relatively new and Facebook, YouTube, Twitter and the iPhone were as real as Capt. Kirk's communicator. Today, there are few facets of daily life that are not available instantly online, including many criminal trials, which you can even watch on your mobile device at 30,000 feet.

What this has done is create an expectation by the public that if something is truly important, it can be witnessed firsthand. Nearly every institution of democratic government has responded. Online access — and particularly video — is routine, whether for local town hall meetings or presidential announcements.

The Supreme Court's oral arguments stand as the lone exception. The court views itself as truly exceptional, fundamentally unique from all other institutions in a way that cameras would somehow spoil.

The problem with this view is that after three decades of other courts using cameras, we don't have to speculate about the effects. In Ohio, we have been broadcasting our cases live on television and the Internet for almost 10 years. The evidence shows that cameras in the courtrooms are a positive experience.

Last month, I spoke at the National Press Club with others from across the political spectrum who would normally find few things to agree on, yet we all agreed that the U.S. Supreme Court should open its proceedings to cameras. We considered the arguments against cameras and found them all wanting.

Some Supreme Court justices have worried that cameras would lead to grandstanding as advocates try to show off for viewers. In my experience, this simply doesn't happen. Attorneys know the only audience they need to convince sits right in front of them, and justices would not allow them to forget that fact. Grandstanding not only fails to help advocates argue their cases, but it may also hurt their stature in the eyes of the court.

The justices of the Supreme Court often claim that they do not want to be public figures. But members of the public have as much right to see them in action as they do their mayors or members of Congress. And privacy concerns do not appear to prevent justices of all ideological stripes from turning to public appearances when promoting one of their books.

Preserving the majesty of the high court is the core of the argument against cameras, but the idea that the court as an institution requires insulation is wrong. Justices express concern that snippets of their discussions might be taken out of context, but that is just as possible in print as it is on video, arguably more so. By not allowing the wider public to see and hear these discussions, the court becomes a more mysterious institution — and not necessarily a more effective one.

One member of the panel at the National Press Club meeting, Kenneth Starr, president of Baylor University and former U.S. solicitor general, joked that, “with all due respect,” the Supreme Court justices “are not the Oracle of Delphi telling us what the gods mean.”

In recent polls, public confidence in the Supreme Court is near an all-time low. This decline will continue until the Supreme Court operates less like an ancient Greek soothsayer and more like the coequal branch of modern government that it is.

Maureen O'Connor is chief justice of the Supreme Court of Ohio.

The Columbus Dispatch

Maureen O'Connor commentary: U.S. Supreme Court should allow cameras

Posted Apr 6, 2013 at 12:01 AM Updated Apr 7, 2013 at 10:58 AM

As the U.S. Supreme Court heard historic oral arguments same-sex marriage last week, a debate outside the courtroom centered on a timeless question facing the top court in the land: Should the justices respond to public opinion or lag behind as society moves forward?

What we witnessed last week leads me to the inescapable conclusion that the U.S. Supreme Court should catch up with the nation. It is time for the court to allow cameras in its courtroom.

I write not as chief justice of the Supreme Court of Ohio but as a citizen. I have a unique perspective by virtue of my experience as a justice on a televised Supreme Court.

Regardless of one's views on same-sex marriage, this week offered a spectacle of vivid images demonstrating that the justices are lost in the 19th century when it comes to being open and transparent to the public they serve. Rather than seeing lawyers in action before the justices, we saw citizens huddled in the cold for days, waiting for a ticket to have the privilege to watch our democratic system of justice in action. There are more than 300 million Americans, but only 500 seats in the Supreme Court gallery.

For most of us, after two days of arguments, we only have access to almost comical courtroom sketches of the proceedings rather than video or even still photographs. We are left with talking heads speculating on what they did not personally observe. These images serve no purpose but to further erode the public image of the court.

Late last year, public confidence in the Supreme Court reached its lowest point in 25 years. In one poll by *The New York Times* and CBS News, only 44 percent of Americans said they approved of the job of the court. About 75 percent said they believe the court's decisions are influenced by politics.

In this Information Age -- when you can post a video of your child's piano recital, and his grandparents "like" it on Facebook before he has finished playing -- the public's expectations about how they acquire knowledge and understand the world have undergone a radical metamorphosis. The impact of video and audio has no equal, and absent really being there, there is no substitute.

The tired old arguments against allowing cameras in the courtroom are approaching flat-Earth status. They fall into one of four categories:

1. *Justices, counsel or observers will grandstand for the cameras.* Like many of our counterparts across the nation, the Ohio Supreme Court broadcasts its oral arguments live, in our case for almost 10 years. Initial speculation of grandstanding has proved unfounded. Our archived video, coupled with online access to briefs and opinions, represents a superior learning tool that has been utilized thousands upon thousands of times.

2. *Allowing cameras detracts from the majesty and decorum of the proceedings.* To the contrary, cartoonish courtroom sketches detract from the proceedings, and as already noted, the public today distrusts what it cannot observe. Technology has advanced to where the cameras are wall-mounted and unobtrusive. The presence of a camera operator is unnecessary, and there is no distraction.

3. *Things will be taken out of context, and the general public won't understand the nuance and complexity of the legal argumentation.* This one is the worst because it is elitist and insulting to the public. The inevitable result of this attitude is that the public is forced to process its information about the court through the filter of the media because there is no direct option available. This is a democracy. We settled the question of whether we trust the people to govern themselves 230 years ago.

4. *The justices are reluctant to become public figures.* Justices are not “ivory-towered,” nor should they be. Justices write and promote their books; they lecture and often participate in teaching events and interviews. The American people are as entitled to know who sits on the Supreme Court as they are entitled to know their local council member or mayor. And they are entitled to see them in action.

The court is to be commended for allowing same-day audio recording of certain big arguments, and select federal lower courts have been experimenting with recorded video. However, the day will come when all U.S. Supreme Court cases are broadcast live in their entirety.

When it does, people will look back on this era the way we do today on the days when ladies were not allowed on the floor of Congress.

The times, they are a'changing. It's time for the U.S. Supreme Court to catch up.

Maureen O'Connor is chief justice of the Ohio Supreme Court.