

IN THE HIGH COURT OF FIJI
AT SUVA

CRIMINAL JURISDICTION

CRIMINAL CASE NO.: HAC 16 OF 2006

BETWEEN:

SITIVENI LIGAMAMADA RABUKA

Applicant

AND:

STATE

Respondent

Counsel: Mr. P. Maiden, SC)
Mr. P. Sharma) – for the Applicant
Ms Tamanikaiwaimaro)

Mr. M. Tedeschi, QC)
Mr. R. Gibson) – for the State
Mr. A. Ravindra-Singh)

Date of Ruling: Wednesday 22nd November, 2006

RE: AN APPLICATION BY FIJI TV TO
RECORD AND BROADCAST TRIAL

Introduction

- [1] This is another application by Fiji TV to record and broadcast these proceedings. As far as the parties are concerned the application has been resolved by consent. A copy of the relevant memorandum is attached to Appendix A.

- [2] There is no law in Fiji covering such applications. Draft guidelines have been discussed but not adopted by the courts. In their absence I have decided that the court might be assisted by considering the exercise of the discretion against an accepted guideline. The New Zealand Institute of Judicial Studies has developed such a document for in court media coverage. It is attached as Appendix B.
- [3] The following decision summarizes my reasons for consenting to the application.

The Case

- [4] The accused was engaged in the Army as a Regular Officer between 1968 and 1991. After leading two military coups in 1987, he took Command of the Fiji Military Forces and attained the rank of Major General. He left the Army to become first Deputy Prime Minister and then Prime Minister of Fiji, a position he held until his coalition was defeated in the general elections of 1999. Throughout this time he was embroiled in the political and constitutional struggle for indigenous rights that culminated in his government introducing the current Constitution in 1997.
- [5] It was while in command of the Army that he formed the counter revolutionary warfare squadron. This was a special services unit with the task of preventing any illegal takeover of government. The unit was subsequently renamed the 1st Meridian Squadron.
- [6] On the 19th of May 2000 a coup occurred in Fiji under the leadership of now convicted traitor George Speight. He ran his coup, took over Parliament and held members of Parliament hostage using members of this special services unit. The coup ended with Speight arrested, the country under martial law and the Army including some coup supporters returned to quarters.
- [7] Later that year on the 2nd of November rebel elements of the same squadron attempted a military takeover of the Queen Elizabeth Barracks to execute the removal of their Commander. This trial is not directly concerned with that mutiny it merely sets the scene of these allegations. It is said that Sitiveni Rabuka on two occasions over this time incited Colonel Seruvakula to mutinous acts first in July and then November of the year 2000.

The Law

[8] There are two relevant constitutional provisions. The first contained in section 29(4) which reads:

“(4) The hearings of courts (other than Military courts) and tribunals established by law must be open to the public”

and then at paragraph 30 the Constitution guarantees freedom of expression which includes freedom of the press and other media.

~~[9] In interpreting these provisions the court must promote the values that underlie a democratic society based on freedom and equality and must have regard to relevant public international law (section 43(2)). Further, as was observed recently by the Supreme Court, the interpretation of these constitutional provisions does not take place in a vacuum but must proceed in the context of Fijian circumstances including her history, custom and geography.~~

[10] In my view these constitutional provisions merely reflect the longstanding common law tradition of open justice. In Fijian custom dispute resolution involves a process of much group discussion. That Fijian process at family, village and chiefly level follows a similar pattern of public discussion about contentious issues.

[11] That tradition has much in common with those who chose to make their homes in these islands to form a multicultural society.

[12] Accordingly, the principles of open justice are further enhanced by a society that expects to have important issues discussed and debated.

Open Justice

[13] The principle of open justice is most frequently expressed in the form of a quote attributed to Lord Chief Justice Hewart from his Lordship’s judgment in **R v Sussex Justices Ex parte Macarthy** [1924] 1 KB 256 at 259.

“It is not merely of some importance but is of fundamental importance, that justice should not only be done, but should manifestly and undoubtedly be seen to be done.”

[14] The principle of open justice has long been known to both common and constitutional law and is often expressed in different ways. Another articulation was that of Lord Atkin who once said: “Justice is not a cloistered virtue”

[15] In 1936 the Privy Council applied the principle in an appeal from the Supreme Court of Alberta, which had set aside orders dissolving a marriage on the basis that the trial of the divorce action had not been in open court. The Privy Council said:

“Publicity is the authentic hallmark of judicial as distinct from administrative procedure ... The court must be open to any who may present themselves for admission. The remoteness of the possibility of any public attendance must never by judicial action be reduced to the certainty that there will be none.” [McPherson v McPherson (1936) AC 177.200]:

[16] The significance of this function was well expressed by Chief Justice Burger, in the landmark decision of *Richmond Newspapers v Virginia* [448 US 444 (1980) at 571-572]:

“Civilized societies withdraw both from the victim and the vigilante the enforcement of criminal laws, but they cannot erase from people’s consciousness the fundamental, natural yearning to see justice done - or even the urge for retribution. The crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can occur if justice is “done in a corner [or] in any covert manner.” It is not enough to say that results alone will satiate the natural community desire for “satisfaction.” A result considered untoward may undermine public confidence, and where the trial has been concealed from public view an unexpected outcome can cause a reaction that the system at best has failed and at worst has been corrupted. To work effectively, it is important that society’s criminal process “satisfy the appearance of justice”,

and the appearance of justice can best be provided by allowing people to observe it.

.....

People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing. When a criminal trial is conducted in the open, there is at least an opportunity both for understanding the system in general and its workings in a particular case.”

The Principle and the Media

[17] I wish to acknowledge again the important discussion on these issues developed by the Chief Justice of New South Wales. His Honour Justice Spigelman delivered a paper at the Media Law Resource Centre Conference in London on the 20th of September 2005. “The principle of open justice a comparative perspective”. This is available at the New South Wales Supreme Court Website www.lawlin.nsw.gov.au/sc.

[18] The principle raises many issues about the administration of justice relevant to the media at the transect between the human rights of open justice and fair trial. It is for that reason that the common law has developed a series of elaborate procedures restricting the flow of information that is made available to jurors. Indeed, most of the law of evidence is concerned to exclude evidence so as to ensure a fair trial where the tribunal of fact is a jury.

[19] It is an essential characteristic of a fair trial that the jurors decide the case upon the evidence that is allowed to be adduced in the trial and which has been tested in accordance with the common law mechanism of trial, particularly by the legal representatives of the accused. Whether this is called due process or natural justice, there is no more fundamental rule in our procedure, especially in our criminal procedure. I do not think any common lawyer would believe that a fair trial could be said to have occurred unless this rule was observed [per Spigelman J (supra)].

[20] However, that right of due process must live alongside the right of open justice. In **R v Legal Aid Board Ex parte Kaim Todner (a firm)** [1999] QB 966 at 977, Lord Steyn observed:

“A criminal trial is a public event. The principle of open justice puts, as has often been said, the judge and all who participate in the trial under intense scrutiny. The glare of contemporaneous publicity ensures that trials are properly conducted. It is a valuable check on the criminal process. Moreover, the public interest may be as much involved in the circumstances of a remarkable acquittal as in a surprising conviction. Informed public debate is necessary about all such matters. Full contemporaneous reporting of criminal trials in progress promotes public confidence in the administration of justice. It promotes the value of the rule of law.”

I agree.

[21] As Justice Spigelman observes (supra)

“The extent to which the principle of a fair trial may conflict with the principle of open justice will be determined by a judgment as to the ability of a jury to set aside irrelevant considerations in the course of its deliberations. This is a matter on which judges will have a range of different views. I have often expressed the view that the tendency to regard jurors as exceptionally fragile and prone to prejudice is unacceptable. I based this on a considerable body of experience of trial judges to the effect that jurors approach their task in accordance with the oath they take and that they listen to the directions they are given and implement them”.

With respect, I agree.

Consideration

[22] In the exercise of my discretion I consider regard should be had to the following matters:

- (a) the need for a fair trial
- (b) the desirability of open justice
- (c) the principle that the media have an important role in the reporting of trials as the eyes and ears of the public

- (d) the importance of fair and balanced reporting of trials
- (e) court obligations to the victims of offences
- (f) the interest and reasonable concerns and perceptions of victims and witnesses
- (g) the nature of the trial

The Need for a Fair Trial

[23] In my view the consent of the accused and prosecution to the recording and broadcast of the trial is an important consideration. Their consent to the application gives the court some assurance that fair trial interests have been considered.

[24] However, consent is but one feature of these matters. The court will always be concerned to ensure that the integrity of the trial process is maintained. This can include the need to see that potential witnesses are not rehearsed and an assessor's judgment not infected by trial publicity.

[25] I am of the view that emphatic directions provide sufficient protection to ensure assessors go about their task in forming an opinion in a fair and just way. Like Justice Spigelman (supra) I accept that the tendency to regard assessors as exceptionally fragile and prone to prejudice is unacceptable.

[26] Today the civilian fact finder is well used to modern communication technology. The assessor or juror will obviously bring with them to any trial a knowledge of important events as reported by print, voice, visual or electronic media. These technologies have been well embedded into daily life. It would be unrealistic to expect that any citizen coming to an important judgment would not have seen or heard something related to a trial, or will not see or hear reports of evidence during a trial.

[27] However, that is not an unfamiliar problem to the common law. Judges have always used emphatic directions to ameliorate any impact from out of court material on an assessor's judgment. The courts have also demanded that reports of proceedings be accurate and balanced. In that sense modern technology can assist the court. There is no greater accuracy than the real time recording of events. If an assessor is to see, read or

hear about trial coverage the court should ensure that the information conveyed is accurately reported. Television broadcast offers that opportunity.

[28] Clearly in a case of this nature, relating as it does to significant events in the nation's history by an accused of some notoriety, there will obviously be a considerable interest in pre-trial and in-trial publicity. I am satisfied that any assessor given an appropriate and emphatic direction will nevertheless approach their task in accordance with the oath they take. I am satisfied they will listen to legal directions, form opinions in an unbiased way based on the evidence and provide the accused with a fair trial.

[29] Concerning witnesses, I am satisfied that their rehearsal of testimony is ameliorated by the multiplicity of requirements for a hearing. Such as constitutional safeguards for pre-charge disclosure of witness statements, legal representation and the right of cross examination. That latter right should not be under valued. It is always open to counsel in appropriate circumstances to challenge the credibility of any witness by asking them if testimony has been rehearsed or altered by outside influence.

[30] I am also satisfied that the exclusory rules of evidence offer a large measure of protection to an accused's fair trial rights. These when taken in combination with warnings and directions to the assessors of the possible impact of sympathy, prejudice or trial publicity strike the proper balance between the rights of the accused, freedom of the press and the imperative of open justice.

[31] It must also be remembered that what is proposed here by the attached consent memorandum is only the nightly broadcast of 1 minute 30 seconds of visual image and the delayed broadcast of testimony after trial. The grant of the application subject to that condition will, in my view, further protect the trial integrity.

Open Justice

[32] I consider the next 3 matters can be dealt with in combination.

[33] For the following 6 reasons I consider the granting of this application would promote open justice, the media's role and proper reporting of the trial.

- [34] Firstly, the importance of the trial. That involves the notoriety of the accused, the coverage of the related events of the coup of the 19th May and the mutiny at the Queen Elizabeth Barracks on the 2nd of November. The obvious media focus on those events and also the events leading up to and anticipated during the trial and the speculation concerning those events. These all contribute in my mind to giving the case a sense of great importance and historical significance. In that way I regarded it as essential to communicate the proceedings in an unbiased simple and direct manner. This is best achieved by using one camera in the courtroom to record and then broadcast proceedings.
- [35] The second reason is the issue of the rule of law and education on justice. In this trial ~~and in trials generally cameras can educate the public facilitating a greater understanding~~ of the issues involved in the particular case generally and provide the assurance that justice by the rule of law is being conducted. The current political climate in Fiji with a stand off between the Military and the Government cannot be ignored. It is a current circumstance. In my view it is especially important to communicate to the public that the rule of law continues, unaffected by such events.
- [36] The third reason is dislocation. The victims of a mutinous act are not just the authority figures sort to be deposed but loyal troops and society. These victims have a right to be informed about the trial and decisions made in a simple and immediate way concerning the events that affected their lives without having to rely on second hand edited reports. In a country with a wide geographical spread and a dispersed population the only way to effectively cover the events surrounding these allegations is by broadcast of the proceedings. This is one of the principles on which the televising of the Bosnian and Rawandan War Crimes Tribunals trials was based. By providing televised or electronic coverage of proceedings the court can be assured that there is no dislocation of any member of society and that truly open and public justice can be actually achieved thereby giving a purposive interpretation to the constitutional provisions in question.
- [37] The fourth reason is judicial control. The ability of the fourth estate to misinform and be inaccurate in their reporting of cases is a real possibility in Fiji. Cameras in the courtroom, in my view, permit people to see for themselves rather than relying on secondary information about the trial. Recording and broadcast is a method of ensuring

accuracy of the information about the trial and an effective method of judicial control of evidence and its out of court use.

[38] Fifthly scrutiny. Far from politicizing the courtroom or providing entertainment, in my view, broadcast coverage of a case ensures transparency of proceedings and scrutiny of the rule of law in action.

[39] Sixthly prejudice. All criminal trials involve the possibility of trial prejudice from court reporting. The press have a constitutional right to be in a courtroom and tell the public what it sees. There is accordingly a balance to be struck. That balance must begin with an accurate report of proceedings. To my mind there is nothing more accurate than the uncensored eye of the camera and unfiltered ear of the microphone.

Victims Interests

[40] The victims of a coup and mutiny are not only those most directly affected but also each and every citizen. The damage these acts inflict is that they challenge and sometimes destroy the trust, belief and confidence necessary to maintain a functioning society. It is important therefore in my view to convey in a simple and unbiased way information from a trial concerning allegations about these national events. Observation of the rule of law in action can restore confidence between citizens that their constitutional compact with the State is quite safe.

The Nature of the Case

[41] The nature of this case is such that it forms part of a remarkable period in the nation's history. It is therefore important that these allegations and their resolution at trial is accurately recorded.

[42] Finally, I am satisfied that the significant reputation of Fiji TV and the understanding of the immediate production team to respect the court process and honour the proposed conditions of coverage are a significant assurance to the court that the recording and subsequent broadcast of the trial will be appropriately dealt with.

Conclusion

[43] Accordingly, for these reasons I am satisfied that the consent memorandum reached to by the accused, the DPP and the applicant is appropriate. Accordingly, I issue an order in terms.



Gerard Winter
JUDGE

At Suva
Wednesday 22nd November, 2006

IN THE HIGH COURT OF FIJI AT SUVA
CRIMINAL JURISDICTION

CRIMINAL CASE NO HAC 16 OF 2006 (Trial No. 2)

BETWEEN: THE STATE

A N D: SITIVENI LIGAMAMADA RABUKA

CONSENT ORDERS

BEFORE THE HONOURABLE MR JUSTICE WINTER IN CHAMBERS
ON TUESDAY 21 NOVEMBER 2006

UPON the oral application of Mr R K Naidu, Counsel for Fiji Television Limited

AND UPON HEARING Mr M Tedeschi, Q.C., Counsel for the State and
Mr P Maiden, S.C, Counsel for the Accused

IT IS HEREBY ORDERED BY CONSENT AS FOLLOWS with respect to
filming and broadcasting of television content in connection with the trial:

Filming

1. Only one camera may be situated in the courtroom, regardless of how many people are given authority to film for television. In the event there is a dispute between those authorized to film for television as to whose camera will be situated in the courtroom, the Judge will rule.
2. The television camera must be situated in a position approved by the Judge.
3. Any person wishing to instruct the camera operator during a court session must sit next to the camera operator and must give any instructions as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the trial.
4. While the Judge is sitting in court for chambers or in closed court, no filming must take place.
5. No assessor may be deliberately filmed and no broadcast may show the assessor or any member of it.
6. Members of the public attending the trial or in view must not be filmed in the courtroom or in the course of the view.
7. Counsel's papers must not be filmed.

8. Exhibits must not be filmed without leave of the Judge.
9. Subject to any protection granted to the accused as a witness, the accused may be filmed only:
 - (a) when giving evidence; or
 - (b) when sitting in the dock, for the first 15 minutes of any sitting day, except when, during that period, a verdict is being taken or a sentencing is underway; or
 - (c) at any time during the trial, including the time when the assessors are taking a view or delivering its verdict, if the accused consents in writing through his or her counsel and the Judge does not prohibit such filming; or
 - (d) during sentencing, if the Judge grants leave
10. No filming may take place in court when the Judge is not present, except with prior leave of the Judge.
11. No filming of any witness may take place if the court, after application, so orders.
12. The media applicant and representatives of the media applicant must at all times conduct themselves in court appropriately.

Broadcasting

13. Subject to these orders, film taken must not be broadcast on television until at least 10 minutes have elapsed.
14. Despite paragraph 12, film taken may be broadcast live or at any time:
 - (a) of closing addresses
 - (b) of the Judge's summing up
 - (c) on the taking of the assessors' verdict; or
 - (d) on the taking of the judge's verdict; or
 - (e) if the Judge grants leaveand for the avoidance of doubt sentencing (if any) may only be broadcast live on separate application to the Court.
15. Neither the:
 - (a) opening addresses of counsel or
 - (b) evidence of any witness

may be broadcast, whether in live or delayed form, until after the conclusion of this trial.

16. There may be broadcast daily, up to 90 seconds of live footage of the trial proceedings (subject to the restrictions in this order) to accompany ordinary news reportage or a reporter's voiceover but such live footage may not be accompanied by the sound recorded at the time of taking such footage.
17. No film content of the first trial of this matter may be broadcast until after the conclusion of this trial or any related appeal.
18. Film taken must not be used in any promotional broadcasts or trailers.

Other

19. The media applicant must maintain a copy of all broadcasts and film taken in court or at a view and must supply a copy to the court if requested by the Judge.

SEALED this day of 2006

BY THE COURT

JUDGE



Approved
M. K. L. Q.C.
State Counsel 28/11/06

This Order is sealed by MUNRO LEYS Solicitors for Fiji Television Limited whose address for service is at their offices at Level 3, Pacific House, Butt Street, Suva.

IN THE HIGH COURT OF FIJI AT SUVA
CRIMINAL JURISDICTION

CRIMINAL CASE NO HAC 16 OF 2006
(Trial No. 2)

BETWEEN: THE STATE

AND: SITIVENI LIGAMAMADA
RABUKA

CONSENT ORDERS

MUNRO LEYS
SOLICITORS
LEVEL 3 PACIFIC HOUSE
BUTT STREET
SUVA

APPENDIX EIGHT – IN-COURT MEDIA COVERAGE GUIDELINES 2003

1. Application of guidelines

These guidelines:

- (a) Apply to all proceedings in the Court of Appeal, the High Court, and the District Court from 1 January 2004;
- (b) Do not have legislative force;
- (c) Do not create rights and should not be construed to create expectations;
- (d) Replace the Guidelines and Voluntary Code of Conduct for Expanded Media Coverage of Court Proceedings dated May 2000.

2. Purpose

- (1) These guidelines are intended to ensure that applications for in-court media coverage are dealt with expeditiously and fairly and that so far as possible like cases are treated alike.
- (2) In making decisions and exercising discretions under these guidelines, the court may have regard to the following matters:
 - (a) The need for a fair trial;
 - (b) The desirability of open justice;
 - (c) The principle that the media have an important role in the reporting of trials as the eyes and ears of the public;
 - (d) The importance of fair and balanced reporting of trials;
 - (e) Court obligations to the victims of offences;
 - (f) The interests and reasonable concerns and perceptions of victims and witnesses.

3. Interpretation

- (1) For the purposes of these guidelines:
 - the court** means the Court of Appeal or the High Court or the District Court;
 - cover** means:
 - (a) film; or

5. Making application

- (1) Any person who wishes to cover a trial must apply to the court where the trial is to take place on the prescribed form in Schedule 1.
- (2) Any such application should be lodged with the Registrar of the court at least ten working days before the trial is due to start.
- (3) Any application lodged inside ten working days before the trial must contain an explanation for the delay and the reasons why it should be granted despite the delay.
- (4) On receipt of an application, the Registrar must refer it promptly to:
 - (a) The trial Judge (or presiding Judge in the case of the Court of Appeal);
 - (b) Counsel for the parties;
 - (c) Any unrepresented party;
- (5) If the trial is a sexual case, counsel for the Crown must provide a copy to the complainant and obtain his or her views about it.

6. Response to application

- (1) Within three working days of receipt of an application, any party receiving it must notify the Registrar, the media applicant, and the other parties in writing:
 - (a) That the application is not opposed; or
 - (b) That the application is opposed (in whole or in part) and the reasons for the opposition.
- (2) In sexual cases, the Crown must notify the Registrar of the complainant's views about the application.

7. Decisions in sexual cases

- (1) If the trial is a sexual case and if the complainant opposes the application, the Judge will decline the application on the papers.
- (2) If the trial is a sexual case and if the complainant supports the application only on condition, the Judge must have special regard for the views of such complainant.
- (3) Guidelines 8 to 11 are subject to subclauses (1) and (2).

- (b) in the case of still photograph coverage, must not photograph the witness while he or she is in court or giving evidence.
- (4) Authority to cover the trial is subject to witness protection granted under this guideline.

11. Additional discretionary witness protection

- (1) This guideline applies to all witnesses in criminal trials (including official witnesses and the accused) and to all witnesses in civil trials.
- (2) Any witness or the party proposing to call the witness may apply by letter to the Registrar of the court in which the trial is to be held for a ruling that the witness not be filmed, photographed, or recorded.
- (3) The application must be lodged at least three clear working days before the trial is due to start provided:
 - (a) the defence in a criminal case may apply orally to the presiding Judge as soon as possible after electing to give or call evidence; and
 - (b) The Judge may decide to consider any other application even if the three day time limit is not met.
- (4) Where written application is made under this rule, the applicant must promptly notify all other parties and any person seeking or granted authority to cover the trial.
- (5) On an application under this guideline, the Judge may hear from the applicant, the parties, and any person seeking or granted authority to cover the trial, but is not obliged, in the case of an application made during the trial, to defer ruling on the application because any person granted authority to cover the trial is not present.
- (6) In considering the application, the Judge may have regard to:
 - (a) the principles set out in guideline 2;
 - (b) whether covering the trial is likely to affect adversely the quality of the evidence to be given by the witness;
 - (c) whether the presence of a television camera or a photographer or radio crew is likely to lead to the witness not turning up to give evidence;
 - (d) whether being filmed or photographed or recorded may cause undue stress or anxiety to the witness;
 - (e) whether being filmed or photographed or recorded may lead to intimidation or harassment of the witness;

13. Revocation of authority to cover a trial

The Judge may at any time revoke authority to cover a trial if:

- (a) the media applicant or someone acting on behalf of the media applicant breaches these guidelines or any condition of the grant of authority to cover the trial; or
- (b) the Judge determines that the rights of any participant in the trial or the accused's right to a fair trial may or will be prejudiced if coverage continues; or
- (c) coverage of the trial is disrupting the proceedings.

14. Minimum conditions

- (1) The conditions on which authority to cover a trial are granted are minimum conditions.
- (2) The media applicant and those acting on behalf of the media applicant must at all times ensure that they do not commit contempt. In particular, they must ensure that they:
 - (a) do not interfere with the due administration of justice;
 - (b) do nothing that may prejudice a fair trial.

15. Method of communication

Any written application or response under these guidelines may be delivered, posted, faxed or emailed.

6. *[To be completed only if this application has been lodged out of time.]*

(a) This application was not filed in accordance with guideline 5(3) because

(b) This application, although filed out of time, should nonetheless be granted because

Applicant information:

Applicant's name

Solicitors¹

Name of responsible person²

Business address³

Postal address³

e-mail address³

¹ If retained.

² If solicitors have not been retained, give the name of the person within the applicant's organisation who is responsible for the application. If solicitors have been retained, give the name of the solicitor who is dealing with the application.

³ If solicitors have not been retained, this information should be provided by reference to the nominated person responsible for the application. If solicitors have been retained, this information should be provided by reference to the solicitor who is dealing with the application.

Schedule 2

STANDARD CONDITIONS FOR TELEVISION COVERAGE

1. Only one camera may be situated in the courtroom, regardless of how many people are given authority to film for television. In the event there is a dispute between those authorised to film for television as to whose camera will be situated in the court room, the Judge will rule.
2. The television camera must be situated in a position approved by the Judge.

3. Any person wishing to instruct the camera operator during a court session must sit next to the camera operator and must give any instructions as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the trial.
4. While the Judge is sitting in court for chambers or in closed court, no filming must take place.
5. No juror may be deliberately filmed and no broadcast may show the jury or any member of it.
6. Members of the public attending the trial or a view must not be filmed in the courtroom or in the course of the view.
7. Counsel's papers must not be filmed.
8. Exhibits must not be filmed without leave of the Judge.
9. Subject to any protection granted to the accused as a witness under guideline 11, the accused may be filmed only:
 - (a) when giving evidence; or
 - (b) when sitting in the dock, for the first 15 minutes of any sitting day, except when, during that period, a verdict is being taken or a sentencing is underway; or

Schedule 3

STANDARD CONDITIONS FOR STILL PHOTOGRAPHS

1. The photographer must be situated in a position approved by the Judge.
2. Any person wishing to instruct the photographer during a court session must sit next to the photographer and must give any instructions as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the trial.

3. While the Judge is sitting in court for chambers or in closed court, photographs must not be taken.
4. No juror may be deliberately photographed and no photograph published may show the jury or any member of it.
5. Members of the public attending the trial or a view must not be photographed in the courtroom or in the course of the view.
6. Counsel's papers must not be photographed.
7. Exhibits must not be photographed without leave of the Judge.
8. Subject to any protection granted to the accused as a witness under guideline 11, the accused may be photographed only:
 - (a) when giving evidence; or
 - (b) when sitting in the dock, for the first 15 minutes of any sitting day, except when, during that period, a verdict is being taken or a sentencing is underway; or
 - (c) at any time during the trial, including the time when the jury is taking a view or delivering its verdict, if the accused consents in writing through his or her counsel and the Judge does not prohibit such photographing;
 - (d) during sentencing, if the Judge grants leave.