

**From:** [Demetria Brue](#)  
**To:** [ADMcomment](#)  
**Subject:** Fwd: ADM File No 2018-30 re MCR 8.115  
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Sent from my iPhone

Begin forwarded message:

Good Afternoon, please find below my comments to ADM File No. 2018-30 re MCR 8.115. I am opposed to the amendment for the following reasons:

1. The amendment is extremely dangerous and devoid of regard for the safety of crime witnesses and victims. As a former career prosecutor in two Michigan counties I have experienced the fear and anguish of witnesses in criminal cases. I have actually observed family and friends of defendants intimidating witnesses prior to testifying. Witnesses would inform me that people were following them outside of the courtroom and making threats. I have prosecuted cases where it was imperative to obtain material witness detainers and preserve sworn testimony prior to trial for fear that the witness would become unavailable at trial. Indeed, some of my witnesses actually became unavailable by leaving the jurisdiction and/or hiding within the jurisdiction. Even worse some witnesses were executed. I recall the mother of a really nice young man telling me that her son had been murdered after testifying. The executioner(s) sent a clear message that the witness was killed as a result of cooperating with the prosecution.

Please consider this question, how can a witness effectively testify when he/she observes a court room filled with people pulling out their recording devices as the witness testifies. If the witness refuses to testify who should the judge admonish? The witness or the intimidating people with the cellphones?

Allowing cellphones or other electronic devices in the courtroom will effectively end successful litigation and prosecution because witnesses will simply refuse to testify. The saying that “snitches get stitches” transcends across social, economic, cultural and racial lines.

Witnesses to a crime are often considered snitches. The use of telephones in a courthouse and courtroom will certainly be used to harass and antagonize witnesses. It has already happened. Without question, allowing cellphones in the court rooms will result in such abuses as taking photos of witnesses and posting them on social media, living streaming testimony on social media and researching witnesses and their family’s social media profiles and accounts. In addition, individuals with phones can follow witnesses to their vehicles and photograph or video their license plates.

The proposed amendment’s suggestion that cellphone users cannot photograph or video without consent is naïve and unrealistic. Photographs can be taken of anyone at anytime secretly. Judges and courthouse staff and security are already overburdened they certainly do not have the time nor inclination to monitor people with telephones for violation of phone usage rules. It makes much more sense

to prohibit the use of telephones in the courthouse. Safety and order in the courthouse outweighs the minor inconvenience to the public of barring cellphones.

2. Another concern is witnesses are often sequestered during trials and hearings. How does a judge prevent a non-witness whose objective is to record the proceedings and share with his/her sequestered cohorts? Again, judges and court staff do not have the manpower or resources to monitor the behavior of people with cellphones. Cellphones and electronic devices are distracting, disruptive and dangerous.
3. Recently a colleague shared with me a situation that occurred in her courtroom while she was on the bench. A litigant removed his cellphone and began holding it up while the judge was talking. The judge asked the litigant what he was doing and he replied that he was recording the proceedings. The judge became nervous and felt disrespected. The judge ordered the litigant to put the phone away. The litigant objected to the judge's order and insisted that he had a right to record the proceedings and prepare his own transcript. As one would imagine, the litigant's behavior disrupted the hearing. Furthermore, if this amendment were to pass, it would encourage this type of disruptive behavior and expressions of entitlement. A judge is expected to maintain order and decorum in the courtroom. How can a judge accomplish this objective when a litigant refuses to abide by a judge's order because an amendment to a court rule effectively allows chaos in the courtroom?

4. Furthermore, the idea of witness or litigant preparing transcripts is ludicrous! Such conduct opens up a can a worms for incorrect or edited content. Court reporters are professionals who take an oath to properly record and transcribe. Professional reporters cannot alter the content of a record without sanctions. Pro se litigants or the public do not face such repercussions and thus have nothing to lose by manipulating a record.
5. My final is regard to statements made off the record and someone is recording the judges' comments. This is particularly concerning if the person recording the statements represents the statements as part of the record.

The aforementioned comments represent just a few of my many concerns and worries about the proposed amendment. As an experienced litigator with over 20 years as an assistant prosecuting attorney and 7 years as a judge I have personally seen how the proposed amendment can result in utter catastrophe. Please consider these comments as a plea to bar cellphones and other electronic devices inside of the courthouse and court rooms. Even allowing the use of cellphones or other electronic devices to photograph files is dangerous and irresponsible. It would allow litigants to recklessly use cellphones to obtain personal information about their opponents (eg. Home address, telephone number, place of employment, social security number, etc.) that could otherwise be redacted by a court clerk. Thank you for your consideration.

*Judge Demetria Brue  
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