

## Cameras in the Court of Appeals?

26. March 2011 By Matthew Nelson

On Friday, the Michigan Supreme Court [denied reconsideration](#) of its earlier denial of leave to appeal to a free-lance journalist whose request to videotape proceedings in the Court of Appeals. Justice Markman concurred, but wrote separately to raise his concerns about Administrative Order 1989-1 which permits courts to exclude film or electronic media coverage upon a finding that the fair administration of justice requires such action. Specifically, Justice Markman questioned the validity of this requirement now that all of the Michigan Supreme Court's arguments are broadcast on Michigan Government Television. Justice Markman has asked that a new administrative file be opened by the Court to consider the continued workability of Administrative Order 1989-1.

Eric VanDussen asked the Court of Appeals to permit him to videotape oral argument in *People v. King*, a case involving the interpretation of the Medical Marihuana Act. The Court of Appeals denied his request and then denied his motion for reconsideration. In its [order denying reconsideration](#), the Court of Appeals stated that underlying its initial denial was the court's "finding that the fair administration of justice is best advanced by the exclusion of media coverage of oral argument in this appeal."

In November 2010, the Michigan Supreme Court denied his application for leave to appeal. VanDussen moved for reconsideration. In his concurrence, Justice Markman raised the following concerns:

*(1) Given that every oral argument before the Michigan Supreme Court has been made fully accessible to the public on Michigan Government Television, what is the justification for making Court of Appeals oral arguments accessible to the public on such radically different terms?*

*(2) Is the "fair administration of justice" a coherent standard in determining whether the videotaping of Court of Appeals proceedings will be permitted in a particular case? What does the "administration of justice" mean in the context of allowing or prohibiting the videotaping of an appellate proceeding? Does this standard effectively afford the Court of Appeals unfettered discretion as to whether videotaping will be permitted in a particular case?*

*(3) Should there be some obligation of articulation upon the Court of Appeals in denying a request to videotape its proceedings based upon the "fair administration of justice?"*

*(4) Should there be any appellate remedy where a request to videotape has been denied by the Court of Appeals? If so, how can an effectively standardless decision be reviewed for the "abuse of discretion?"*

Justice Marilyn Kelly would have granted reconsideration.