

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 5<sup>th</sup> day of February 2009, the following order was made and entered:

**IN RE: Proposed Amendments to Rule 6 of the West Virginia Rules of Criminal Procedure**

On a former day, to wit, January 28, 2008 the Court published for comment proposed amendments to the West Virginia Rules of Criminal Procedure, Rule 6. No comments were filed.

On this day came the Court, on its own motion and proceeded to consider amendments to Rule 6 of the West Virginia Rules of Criminal Procedure. Upon consideration whereof, the Court is of opinion to and does hereby adopt the following rule with said amendments, effective March 9, 2009. Deletions are indicated by strikethroughs and insertions are indicated by underscoring, to read as follows:

**“RULE 6. THE GRAND JURY**

\* \* \*

(d) *Who May Be Present.* – The following persons may be present while the grand jury is in session: ~~Attorneys for the state, the witness under examination, interpreters when needed, and, for the purpose of taking the evidence, a stenographer or operator of a recording device,~~ may be present while the grand jury is in session, but During deliberations and voting no person other than the jurors and any interpreter needed to assist a hearing-impaired or speech-impaired juror, may be present while the grand jury is deliberating or voting.

(e) *Recording Reporting and Disclosure of Proceedings.* – (1) Recordings Reporting of Proceedings. – All proceedings, except when the grand jury is deliberating or voting, shall be ~~recorded~~ reported by an official court reporter or a certified court reporter approved by the Supreme Court stenographically or by an electronic recording device. An unintentional failure ~~of any recording~~ to reproduce all or any portion of a proceeding shall not affect the validity of the prosecution. ~~The recording or~~ reporter's notes or any transcript prepared therefrom shall be filed with the clerk of the circuit court and shall not be made public except on order of the court.”

\* \* \*

A True Copy

Attest: \_\_\_\_\_  
Deputy Clerk, Supreme Court of Appeals