



MINNESOTA JUDICIAL TRAINING UPDATE



ORDERING DEFENDANTS TO WEAR RESTRAINTS DURING TRIAL

QUESTION: Under what circumstances can the court order a defendant to wear restraints (e.g. leg restraint not visible to the jury, etc.) during trial and what nine (9) factors should the court consider in reaching a decision? *State v. Jones*, 678 N.W.2d 1 (Minn 2004)

GENERAL RULE:

- 1) Because of the prejudice involved in having a defendant restrained, to be constitutionally permissible, restraints MUST NOT be used “unless the trial judge has found such restraint reasonably necessary to maintain order or security”.
- 2) A trial judge who orders such restraint shall state the reasons on the record outside the presence of the jury”. MN Rule of Crim Proc 26.03 subd 2 (c).

NINE (9) FACTORS THE COURT SHOULD CONSIDER:

The non-exclusive list of factors to be considered in making the decision of whether to restrain the defendant include the following:

- 1) the seriousness of the charge;
- 2) the defendant's temperament and character;
- 3) the defendant's age and physical attributes;
- 4) the defendant's past record;
- 5) the defendant's prior escapes or attempted escapes;
- 6) threats made by the defendant to cause a disturbance;
- 7) the size and mood of the audience;
- 8) the nature and security of the courtroom; and
- 9) any less restrictive available alternatives.

WARNING – INSUFFICIENT FINDINGS: Ordering restraints relying only on the serious nature of the charged crime (murder in 1st degree) and the inconspicuous nature of the restraint (i.e. leg restraint not visible to jury) was not objectively reasonable (judicial error). To hold otherwise would encourage courts to order restraints for all defendants charged with serious offenses. *State v. Jones*, 678 N.W.2d 1 (Minn 2004).