

# Cameras in Court

A reminder that the  
use of recording  
devices in NSW  
Courts is prohibited.



**NO CAMERAS IN COURT**

Videos from OPCA theorists court interactions often go viral on social media, usually they are seeking validation of their OPCA efforts online from other enthusiasts. Unfortunately the use of recording devices in NSW Courts is prohibited under [section 9](#) of the *Court Security Act 2005* (NSW) and carries a \$22,000 fine or imprisonment for 12 months (or both).

Saying "This does not apply to me..." will not save the OPCA adherent from prosecution. Express permission from the magistrate is required to make any recording.

## COURT SECURITY ACT 2005 - SECT 9 Use of recording devices in court premises

### COURT SECURITY ACT 2005 - SECT 9

#### Use of recording devices in court premises

##### 9 USE OF [RECORDING DEVICES](#) IN [COURT PREMISES](#)

(1) A person must not use a [recording device](#) to record sound or images (or both) in [court premises](#).

: Maximum penalty--200 penalty units or imprisonment for 12 months (or both).

**Note :** This subsection only prohibits the use of a [recording device](#) to record sound or images (or both) and not any other use of the device. For example, this subsection would not prohibit a person from using a [mobile phone](#) with recording capabilities to make a telephone call, but would prohibit the use of the phone to record [court](#) proceedings.

(2) Subsection (1) does not apply with respect to any of the following--

(a) the use of a [recording device](#) that has been expressly permitted by a [judicial officer](#),

(b) the use by a lawyer of a [recording device](#) to record the lawyer's own voice in a part of [court premises](#) other than a room where a [court](#) is sitting,

(c) the use of a [recording device](#) by a person for the purpose of transcribing [court](#) proceedings for the [court](#),

(d) the use of a [recording device](#) by a [journalist](#) while exercising a right referred to in [section 6](#) (2),

(e) the use of such [recording devices](#) in such other kinds of circumstances as may be prescribed by the regulations.

The provision involving journalists in [section 6\(2\)](#) of the *Court Security Act 2005* (NSW) only provides for areas outside of a court in session:

#### COURT SECURITY ACT 2005 - SECT 6

##### Right to enter and remain in open areas of court premises

##### 6 RIGHT TO ENTER AND REMAIN IN OPEN AREAS OF [COURT PREMISES](#)

(2) Without limiting subsection (1), a [journalist](#) has a right to enter and remain in an area of [court premises](#) open to the public that is located outside of a building in which the [court](#) is housed or is sitting for the purpose of making a [media report](#) if the [journalist](#) is not obstructing or otherwise impeding access to the building.

Similarly in Victoria and other States. The offence of recording a proceeding is found in [section 4A\(1\)](#) of the *Court Security Act 1980* (Vic). It likewise provides several exceptions, one being in section 4A(2) for an employee of the Court to enable the preparation of an official transcript, 4A(3)(a) a journalist for the purpose of preparing a media report, and (b) a lawyer for the purposes of legal representation, and 4A(4)(a) if express written permission is given by a judicial officer.

At the start of the hearing in [Kyriazis v County Court of Victoria \(No 1\) \[2017\] VSC 636](#), Vasilios Kyriazis sought permission to audio-record the proceeding, and Bell J gave reasons for granting that permission. His Honour considered that the applicable provisions of the *Court Security Act* do not override a judicial officer's function of ensuring a fair hearing or trial, and due assistance to an applicant who appears as a litigant in person, seeking to audio-record a proceeding in which he was a party. It was noted that in that hearing, the other party was legally represented by a solicitor and barrister having standing permission under section 4A(3)(b) to audio-record the proceeding, and granting permission would help to ensure "equality of arms". His Honour considered that if no suppression, confidentiality or like orders had been made in a proceeding and making an audio-recording would not otherwise be unlawful or restricted under specific legislation, it would not be necessary to refuse permission to prevent frustration of the administration of justice.

<https://freemandelusion.com/wp-content/uploads/2022/05/Kyriazis-v-County-Court-of-Victoria-No-1-2017-VSC-636.pdf>

This wasn't the first time Vasilios Kyriazis had tested the ability to record his own proceeding. In [Kyriazis v The Magistrates' Court of Victoria at Heidelberg \[2014\] VSC 411](#) he had applied for orders that charges determined in his absence be re-heard, after he left the Court due to the magistrate refusing to grant him permission to audio-record, claiming he left because he was threatened and intimidated. The Registrar had informed him that he was not authorised to record the proceedings under section 130 of the *Evidence (Miscellaneous Provisions) Act 1958* and that his purported reliance on the *Listening Devices Act 1969* as the source of his power to record was inappropriate, and that the matter would continue in his absence if he did leave. He sought judicial review "on points of law" claiming the Registrar breached the rules of natural justice and displayed bias against him, by refusing to appropriately determine the issue of lawfully recording in the courtroom to ensure his common law right to protect his lawful interests.

Vasilios Kyriazis was granted a re-hearing of the charges, and he again attempted to make his own recording of the hearing and again left the court when told that he could not do so, and again the hearing proceeded ex parte. He then applied for orders setting aside the decision for similar grounds of bias and the hearing not being fair and impartial. This second application for re-hearing was refused. At the Supreme Court, Williams J considered there would be no utility in making the order sought quashing the second decision, as the charges have been re-heard, convictions and penalties imposed and an application for a subsequent re-hearing refused. Further, that in effect he is challenging the existence of a discretion as to whether he be permitted to make the recording.

<https://freemandelusion.com/wp-content/uploads/2022/05/Kyriazis-v-The-Magistrates-Court-of-Victoria-at-Heidelberg-2014-VSC-411.pdf>

Similar Commonwealth legislation can be found in [Section 17 of the Court Security Act 2013](#) (Cth)



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