

Our Views: Judge Wrong on Denying Use of Skype in Court

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On Friday, Lewis County Superior Court Judge James Lawler ruled against using Skype by a victim in a rape case.

Skype is a popular and useful live video conferencing tool that allows people to see and hear each other from remote locations.

The use of new technology is expanding in our law and justice system, from video pleas to bond hearings. Just as we now text and email, technology effectively and efficiently replaces forms of communications such as the written letter.

Skype would have allowed the victim, who has recently had a serious heart attack and bypass surgery, and now has multiple stents in her heart, to testify. Doctors have said the stress of confronting the suspect in person could be fatal to the victim.

The victim previously testified in person, but that trial ended in a mistrial after the judge got sick. During that trial, a prosecutor said testifying was devastating to the victim.

The prosecutor said the suspect made “unnecessary comments” and facial expressions at the victim during the mistrial.

“I had to pry her up off the floor because she was sobbing and under so much anxiety,” the prosecutor said.

At issue is the Confrontation Clause of the U.S. Constitution vs. simply what is proper and right in our society.

The Confrontation Clause of the Sixth Amendment states “in all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him.”

That portion makes sense. We support the right to see and examine those who make criminal allegations against us. But times have changed.

Adopted by the United States in 1791, the notion of Skype technology was likely not a consideration 222 years ago.

The Confrontation Clause in essence guarantees three main items: The witness understands the seriousness of the trial, cross examination is allowed, and the judge and jury can observe the witness' body language and demeanor.

In all three of those instances, Skype delivers.

The victim testified on Monday, but the trial had to be recessed when she complained of severe chest pain.

We have found Lawler an outstanding adjudicator during his term on the bench.

On this decision, however, we believe he has misplaced the letter of the law for the spirit of the law.