

CRIMINAL JURISPRUDENCE & PRACTICE COMMITTEE

Respectfully submits the following position on:

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ADM File No. 2014-09

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The Criminal Jurisprudence & Practice Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Criminal Jurisprudence & Practice Committee only and is not an official position of the State Bar of Michigan, nor does it necessarily reflect the views of all members of the State Bar of Michigan.

The State Bar position on this matter is to take no position on the proposed amendments to MCR 7.215(A) and MCR 7.215(B); to oppose the proposed amendments to MCR 7.215(C) for the reasons stated in Justice Markman's dissent; and to authorize Sections and Committees to transmit non-conflicting positions to the Court.

The total membership of the Criminal Jurisprudence & Practice Committee is 18.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 18. The number who voted in favor to the position to oppose amendments to MCR 7.215(B) was 9. The number who voted opposed to this position was 3. The number who voted in favor to the position to oppose amendments to MCR 7.215(C) was 11. The number who voted opposed to this position was 1.

Report on Public Policy Position

Name of Committee:

Criminal Jurisprudence and Practice

Contact persons:

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Proposed Court Rule or Administrative Order Number:

[2014-09 - Proposed Amendment of MCR 7.215](#)

The proposed amendments of MCR 7.215(A)-(C) were submitted by the Court of Appeals. Proposed MCR 7.215(A) would clarify the term “unpublished” as used in the rule. The proposed amendment of MCR 7.215(B) would provide more specific guidance for Court of Appeals judges regarding when an opinion should be published. Finally, in response to what the Court of Appeals describes as an increased reliance by parties on unpublished opinions, the proposed revision of MCR 7.215(C) would explicitly note that citation of unpublished opinions is disfavored unless an unpublished decision directly relates to the case currently on appeal and published authority is insufficient to address the issue on appeal.

Date position was adopted:

March 12, 2015

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

18

Number who voted in favor and opposed to the position to oppose amendments to MCR 7.215(B):

9 Voted for position

3 Voted against position

0 Abstained from vote

6 Did not vote (absent)

Number who voted in favor and opposed to the position to oppose amendments to MCR 7.215(C):

11 Voted for position

1 Voted against position

0 Abstained from vote

6 Did not vote (absent)

Explanation of the position, including any recommended amendments:

The committee voted 9 to 3 to oppose the proposed amendments to MCR 7.215(B) because the publication requirements become too restrictive.

The committee voted 11 to 1 to oppose the proposed amendments to MCR 7.215(C) for the reasons stated by Justice Markman in his dissent.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

http://courts.mi.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Adopted/2014-09_2015-02-18_formatted%20order_with%20SJM%20stmt%20with%20RC.pdf