



p 517-346-6300

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Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

306 Townsend Street

Michael Franck Building

Lansing, MI

48933-2012

RE: ADM File No. 2017-27 – Proposed Amendment of Rule 6.425 of the Michigan Court Rules

Dear Clerk Royster:

At its January 18, 2019 meeting, the Board of Commissioners of the State Bar of Michigan (Board) considered the above-referenced rule amendment published for comment. In its review, the Board considered recommendations from the Access to Justice Policy Committee, Criminal Jurisprudence & Practice Committee, and Appellate Practice Section. The Board voted unanimously to support the rule proposal with additional amendments to section (F).

The Board supports the proposed amendment to MCR 6.425(E), which makes the rule consistent with the Court's decision in *People v Lockeridge*, 498 Mich 358 (2015).

For subsection (F), the Board supports changing the language to "filed with the court" in subsections (F)(1)-(3) as proposed in the rule published for comment. The Board, however, also supports adding the language suggested by the State Appellate Defender Office (SADO) to ensure that courts give defendants an opportunity to submit the request for counsel at sentencing (which is the current practice in many courts) and to incorporate the prison mailbox rule into the rule. SBM's proposed amendments are shown below in bold and underline:

(3) The court also must give the defendant a request for counsel form containing an instruction informing the defendant that the form must be ~~completed and returned to~~ filed with the court within 42 days after sentencing if the defendant wants the court to appoint a lawyer. **The court must give the defendant an opportunity to tender a completed request for counsel form at sentencing if the defendant wishes to do so.**

(4) A request for counsel must be deemed filed on the date on which it is received by the court, but if a request is received more than 42 days after sentencing, and if the defendant is incarcerated in a prison or jail, the request must be deemed filed on the date of deposit in the outgoing mail at the prison or jail in which the defendant is housed. Timely filing may be shown by a sworn statement, which must set forth the date of deposit and state that first-class postage has been prepaid.

(5) [Renumbered from (4) but otherwise unchanged.]

We thank the Court for the opportunity to comment on the proposed amendments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Janet Welch', with a large, stylized initial 'J' that loops around the first part of the name.

Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Jennifer M. Grieco, President