

State Bar of Michigan
Criminal Jurisprudence and Practice Committee
Thursday, January 17, 2013 – 1 to 3 PM
Please use teleconference 1-877-352-9775, Passcode 9152168764#

MINUTES

Committee Members: Ryan Lee Berman, Mary Alexis Bowen, Thomas P. Clement, Nichole Jongsma Derks, J. Kevin McKay, Julie A. Powell, Jonathan Sacks, Samuel R. Smith
SBM Staff: Peter Cunningham, Carrie Sharlow

1. Call to Order & Welcome
2. Review of November 2012 Meeting Minutes – Minutes will be approved by e-vote with the inclusion of Ryan Berman as attending. Everyone on the call supported. Members who are not in attendance will be sent the e-vote.
3. New Business

- a. [ADM File No. 2011-19 Proposed Amendments of Rule 6.302 and Rule 6.310 of the Michigan Court Rules](#)

The proposed amendments of MCR 6.302 and MCR 6.310 would eliminate the ability of a defendant to withdraw a plea if the defendant and prosecutor agree that the prosecutor will recommend a particular sentence, but the court chooses to impose a sentence greater than that recommended by the prosecutor. Further, the proposal would clarify that a defendant's misconduct that occurs between the time the plea is accepted and the defendant's sentencing may result in a forfeiture of the defendant's right to withdraw a plea in either a Cobbs or Killebrew case.

Issued: November 7, 2012

Comment Period Expires: March 1, 2013

The motion was made to recommend that the elimination of the Killebrew agreements within the proposed amendments not be enacted. The committee opposes the proposed changes to MCR 6.302 due to the perception that it would nullify the People v. Killebrew case law decision. Further, in its effort to allivate the confusion of agreements and recommendations in pleas, the proposed amendment offers more instances of it. However, the committee supports the amendment of MCR 6.310(B)(3).

The telephone vote was 7 in favor of the motion, 1 in opposition. Members who are not in attendance will be sent the e-vote.

4. Reports
 - a. Criminal Law Section –
The most important item is the overlap of the indigent defense commission.
 - b. Eyewitness Task Force –

The task force is on its way to completing its work. They have drafted two standards manuals for law enforcement use. It is hoped that these manuals will be adopted in lieu of mandated legislation.

- c. Indigent Defense –
The indigent defense bill of 2012 did not pass the Senate. However, discussion is continuing with a workgroup formed by Senator Caswell.
 - d. Custodial Interrogation Recording Legislation –
SB 152 was signed and is now Public Act 479. It will be effective in the spring. This item is therefore removed from the agenda.
5. Adjournment.