



p 517-346-6300

p 800-968-1442

f 517-482-6248

www.michbar.org

306 Townsend Street

Michael Franck Building

Lansing, MI

48933-2012

March 29, 2018

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

RE: ADM File No. 2016-42: Proposed Amendments of Rules 6.310, 6.429, and 6.431 of the Michigan Court Rules

Dear Clerk Royster:

At its March 20, 2018 meeting, the State Bar of Michigan Executive Committee considered the above-referenced proposed rule amendments published by the Court for comment.¹ As part of its review, the Executive Committee considered recommendations from the Criminal Law Section, Appellate Practice Section, Criminal Jurisprudence & Practice Committee, Access to Justice Policy Committee, and Public Policy Committee.

After this review, the Executive Committee voted unanimously to support the rule proposal to provide a prison-mailbox rule for post-sentencing motions with the following amendments (recommended language shown in bold):

MCR 6.310:

Timely filing may be shown by a sworn statement **filed with the motion, which must set forth the date of deposit and state that first-class postage has been prepaid.**

MCR 6.429:

If a motion to ~~withdraw~~**correct an** invalid sentence is received by the court after the expiration of the periods set forth above . . . **Timely filing may be shown by a sworn statement filed with the motion, which must set forth the date of deposit and state that first-class postage has been prepaid.**

¹ Under Article III, §9 of the State Bar of Michigan Bylaws, “[t]he Executive Committee may take a position on a proposed Court Rule if the deadline for a response does not allow for consideration by the Board, provided the position is not inconsistent with policies adopted by the Board or Representative Assembly.”

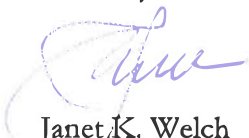
MCR 6.431

Timely filing may be shown by a sworn statement **filed with the motion**, which must set forth the date of deposit and state that first-class postage has been prepaid.

Requiring that the sworn statement be filed with the motion will reduce the number of disputes about when the prisoner deposited the motion in the outgoing mail at the correctional institution and assist courts in determining the timeliness of the post-sentencing motion.

We thank the Court for the opportunity to convey the State Bar's position on this rule proposal.

Sincerely,



Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Donald G. Rockwell, President, State Bar of Michigan