

Order

Michigan Supreme Court
Lansing, Michigan

May 18, 2010

Marilyn Kelly,
Chief Justice

ADM File No. 2008-25

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

Amendment of Rule 6.433
of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rule 6.433 of the Michigan Court Rules are adopted, effective September 1, 2010.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 6.433 Documents for Postconviction Proceedings; Indigent Defendant

(A)-(B)[Unchanged.]

(C) Other Postconviction Proceedings. An indigent defendant who is not eligible to file an appeal of right or an application for leave to appeal may obtain records and documents as provided in this subrule.

(1) The defendant must make a written request to the sentencing court for specific court documents or transcripts indicating that the materials are required to pursue postconviction remedies in a state or federal court and are not otherwise available to the defendant.

(2) If the documents or transcripts have been filed with the court and not provided previously to the defendant, the clerk must provide the defendant with copies of such materials without cost to the defendant. If the requested materials have been provided previously to the defendant, on defendant's showing of good cause to the court, the clerk must provide the defendant with another copy.

(3)-(4)[Unchanged.]

Staff Comment: This amendment inserts a “good cause” provision into MCR 6.433(C) to require a defendant in postconviction proceedings to show good cause to obtain a second set of court documents. This amendment mirrors the good-cause provision in MCR 6.433(B)(2) for appeals by leave.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 18, 2010

Corbin R. Davis

Clerk