

# Order

Michigan Supreme Court  
Lansing, Michigan

February 1, 2012

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2010-15

Michael F. Cavanagh  
Marilyn Kelly  
Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

Amendment of  
Rule 6.005 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 amendment of Rule 6.005 of the Michigan Court Rules is adopted, effective May 1, 2012.

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

Rule 6.005 Right to Assistance of Lawyer; Advice; Appointment for Indigents;  
Waiver; Joint Representation; Grand Jury Proceedings

(A)-(G)[Unchanged.]

(H) Scope of Trial Lawyer's Responsibilities. The responsibilities of the trial lawyer who represents the defendant include:

(1)-(3)[Unchanged.]

(4) Unless an appellate lawyer has been appointed or retained, or if retained trial counsel withdraws, the trial lawyer who represents the defendant is responsible for filing postconviction motions the lawyer deems appropriate, including motions for new trial, for a directed verdict of acquittal, to withdraw plea, or for resentencing, ~~and~~

(5) when an appellate lawyer has been appointed or retained, promptly making the defendant's file, including all discovery material obtained, available for copying upon request of that lawyer. The trial lawyer must retain the materials in the defendant's file for at least five years after the case is disposed in the trial court.

(I) [Unchanged.]

Staff Comment: This amendment clarifies that trial counsel is required to make a defendant's file available to an appellate lawyer, and is required to retain the file for at least five years after disposition of the case in the trial court. This file was prompted by reports of appellate counsel having difficulty obtaining trial materials (especially video or audio materials that were not transcribed as part of the transcript). The five-year period mirrors the five-year retention period contained in MRPC 1.15(b)(2).

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.

February 1, 2012

*Corbin R. Davis*

Clerk