

Postjudgment Options for Relief Table

Type of Motion	Authority	Time Requirements	Relevant Court Form(s)	MJI Benchbook Discussion
<p>Motion for a New Trial</p>	<p>MCR 6.431</p>	<p>-Before filing a timely claim of appeal. MCR 6.431(A)(1). -If appeal filed, only in accordance with MCR 7.208(B) procedure or MCR 7.211(C)(1) remand procedure. MCR 6.431(A)(2). -If appeal only by leave OR claim of appeal is not timely, within 6 months of entry of judgment or order, MCR 6.431(A)(3), citing MCR 7.205(A)(2)(a); or 42 days after whichever is later: (1) an order regarding appellate counsel if defendant requested counsel within 6 months after entry of the judgment or order, (2) the filing or transcripts ordered under MCR 6.425(G)(1)(f) if defendant requested counsel within 6 months after entry of the judgment or order, or (3) the filing of transcripts ordered under MCR 6.433 if the defendant requested transcripts within 6 months after entry of the judgment or order, MCR 6.431(A)(3), citing MCR 7.205(A)(2)(b)(i)-(iii). -If no longer entitled to appeal by right or by leave, see relief under MCR 6.500 et seq. MCR 6.431(A)(4). -If defendant is incarcerated and files a pro per motion, the motion “must be deemed timely filed if it was deposited in the institution’s outgoing mail on or before the filing deadline”; timely filing may be shown by a receipt of mailing, sworn statement attesting to the deposit date and prepaid postage, or other evidence such as a postmark or date stamp showing timely deposit and prepaid postage. MCR 1.112.</p>	<p><i>Order Vacating Conviction and Entering New Disposition</i>, CC 387</p>	<p><i>Criminal Proceedings Benchbook, Vol. 3</i>, Chapter 1</p>

Type of Motion	Authority	Time Requirements	Relevant Court Form(s)	MJJ Benchbook Discussion
<p>Motion for Judgment of Acquittal (Directed Verdict) After Jury Verdict</p>	<p>MCR 6.419</p>	<p>Same as MCR 6.431(A): -Before filing a timely claim of appeal. MCR 6.431(A)(1). -If appeal filed, only in accordance with MCR 7.208(B) procedure or MCR 7.211(C)(1) remand procedure. MCR 6.431(A)(2). -If appeal only by leave OR claim of appeal is not timely, within 6 months of entry of judgment or order, MCR 6.431(A)(3), citing MCR 7.205(A)(2)(a); or 42 days after whichever is later: (1) an order regarding appellate counsel if defendant requested counsel within 6 months after entry of the judgment or order, (2) the filing or transcripts ordered under MCR 6.425(G)(1)(f) if defendant requested counsel within 6 months after entry of the judgment or order, or (3) the filing of transcripts ordered under MCR 6.433 if the defendant requested transcripts within 6 months after entry of the judgment or order, MCR 6.431(A)(3), citing MCR 7.205(A)(2)(b)(i)-(iii). -If no longer entitled to appeal by right or by leave, see relief under MCR 6.500 et seq. MCR 6.431(A)(4). -If defendant is incarcerated and files a pro per motion, the motion “must be deemed timely filed if it was deposited in the institution’s outgoing mail on or before the filing deadline”; timely filing may be shown by a receipt of mailing, sworn statement attesting to the deposit date and prepaid postage, or other evidence such as a postmark or date stamp showing timely deposit and prepaid postage. MCR 1.112.</p>	<p><i>Order of Acquittal/Dismissal or Remand</i>, MC 262</p> <p><i>Order Vacating Conviction and Entering New Disposition</i>, CC 387</p>	<p><i>Criminal Proceedings Benchbook, Vol. 3, Chapter 1</i></p>

Type of Motion	Authority	Time Requirements	Relevant Court Form(s)	MJIBenchbook Discussion
<p>Motion to Withdraw Plea After Sentence</p>	<p>MCR 6.310</p>	<p>-Within 6 months of entry of judgment or order, MCR 6.310(C)(1), citing MCR 7.205(A)(2)(a); or 42 days after whichever is later: (1) an order regarding appellate counsel if defendant requested counsel within 6 months after entry of the judgment or order, (2) the filing or transcripts ordered under MCR 6.425(G)(1)(f) if defendant requested counsel within 6 months after entry of the judgment or order, or (3) the filing of transcripts ordered under MCR 6.433 if the defendant requested transcripts within 6 months after entry of the judgment or order, MCR 6.310(C)(1), citing MCR 7.205(A)(2)(b)(i)-(iii).</p> <p>-If no longer entitled to appeal by right or by leave, see relief under MCR 6.500 et seq. MCR 6.310(C)(2).</p> <p>-If defendant is incarcerated and files a proper motion, the motion “must be deemed timely filed if it was deposited in the institution’s outgoing mail on or before the filing deadline”; timely filing may be shown by a receipt of mailing, sworn statement attesting to the deposit date and prepaid postage, or other evidence such as a postmark or date stamp showing timely deposit and prepaid postage. MCR 1.112.</p>	<p>N/A</p>	<p><i>Criminal Proceedings Benchbook, Vol. 3, Chapter 1</i></p>

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<p>Motion to Correct Invalid Sentence</p>	<p>MCL 769.34(10) (note that in <i>People v Posey</i>, ___ Mich ___, ___ (2023), the Court struck down the first sentence of MCL 769.34(10)); MCR 6.429</p>	<p>-Before filing a timely claim of appeal. MCR 6.429(B)(1). -If appeal filed, only in accordance with MCR 7.208(B) procedure or MCR 7.211(C)(1) remand procedure. MCR 6.429(B)(2). -If appeal only by leave OR claim of appeal is not timely, within 6 months of entry of judgment or order, MCR 6.429(B)(3), citing MCR 7.205(A)(2)(a); or 42 days after whichever is later: (1) an order regarding appellate counsel if defendant requested counsel within 6 months after entry of the judgment or order, (2) the filing or transcripts ordered under MCR 6.425(G)(1)(f) if defendant requested counsel within 6 months after entry of the judgment or order, or (3) the filing of transcripts ordered under MCR 6.433 if the defendant requested transcripts within 6 months after entry of the judgment or order, MCR 6.429(B)(3), citing MCR 7.205(A)(2)(b)(i)-(iii). -If no longer entitled to appeal by right or by leave, see relief under MCR 6.500 et seq. MCR 6.429(B)(4). -If defendant is incarcerated and files a pro per motion, the motion “must be deemed timely filed if it was deposited in the institution’s outgoing mail on or before the filing deadline”; timely filing may be shown by a receipt of mailing, sworn statement attesting to the deposit date and prepaid postage, or other evidence such as a postmark or date stamp showing timely deposit and prepaid postage. MCR 1.112.</p>	<p>N/A</p>	<p><i>Criminal Proceedings Benchbook, Vol. 3, Chapter 1</i></p>
<p>Motion to Correct Mistakes</p>	<p>MCR 6.435</p>	<p>-Clerical mistakes - at any time. MCR 6.435(A). -Correction of Record - at any time. MCR 6.435(C). -During Appeal - subject to MCR 7.208(A) and MCR 7.208(B). MCR 6.435(D). -Substantive mistakes MAY NOT be corrected after judgment has been entered. MCR 6.435(B).</p>	<p>N/A</p>	<p><i>Criminal Proceedings Benchbook, Vol. 3, Chapter 1</i></p>

Type of Motion	Authority	Time Requirements	Relevant Court Form(s)	MJIBenchbook Discussion
<p>Motion for Relief from Judgment</p>	<p>MCR 6.500 <i>et seq.</i></p>	<p>Note: A defendant may not file a Motion for Relief from Judgment if he/she still has the ability to challenge his/her conviction on appeal. MCR 6.508(D). -Motion for Relief from Judgment may be filed at any time, but a defendant may seek relief from one judgment only. MCR 6.502(B). See also <i>People v Suttles</i>, 505 Mich 1038 (2020) (holding denial of a motion for relief from judgment as “untimely” was error and noting “MCR 6.502 does not contain a deadline by which motions for relief from judgment must be filed”).</p>	<p><i>Motion for Relief from Judgment</i>, CC 257.</p>	<p><i>Criminal Proceedings Benchbook, Vol. 3, Chapter 3</i></p>

Type of Motion	Authority	Time Requirements	Relevant Court Form(s)	MJIBenchbook Discussion
<p>Motion to Set Aside more than one Felony Conviction</p>	<p>MCL 780.621 et seq.</p>	<p>Must be filed 7 or more years after whichever of the following occurs last: -Imposition of the sentence for the convictions that the applicant seeks to set aside. -Completion of any term of felony probation imposed for the convictions that the applicant seeks to set aside. -Discharge from parole imposed for the convictions that the applicant seeks to set aside. -Completion of any term of imprisonment imposed for the convictions that the applicant seeks to set aside. MCL 780.621d(1)(a)-(d).</p> <p>If petition denied, must wait 3 years before filing another petition concerning same conviction(s) unless earlier date specified. MCL 780.621d(5). ***** For victim of human trafficking violation, at any time following date of conviction to be set aside. MCL 780.621d(6). May apply to have more than one conviction set aside under MCL 780.621(3). MCL 780.621d(6).</p>	<p>Order on Application to Set Aside Conviction, MC 228.</p>	<p>Criminal Proceedings Benchbook, Vol. 3, Chapter 3</p>

Type of Motion	Authority	Time Requirements	Relevant Court Form(s)	MJI Benchbook Discussion
<p>Motion to Set Aside one or more Serious Misdemeanor Convictions, one First Violation Operating While Intoxicated Offense, or one Felony Conviction</p>	<p>MCL 780.621 et seq.</p>	<p>Must be filed 5 or more years after whichever of the following occurs last:</p> <ul style="list-style-type: none"> -Imposition of the sentence for the conviction or convictions that the applicant seeks to set aside. -Completion of probation imposed for the conviction or convictions that the applicant seeks to set aside. -Discharge from parole imposed for the conviction that the applicant seeks to set aside, if applicable. -Completion of any term of imprisonment imposed for the conviction or convictions that the applicant seeks to set aside. MCL 780.621d(2)(a)-(d). <p>If petition denied, must wait 3 years before filing another petition concerning same conviction(s) unless earlier date specified. MCL 780.621d(5).</p> <p>*****</p> <p>For victim of human trafficking violation, at any time following date of conviction to be set aside. MCL 780.621d(6). May apply to have more than one conviction set aside under MCL 780.621(3). MCL 780.621d(6).</p>	<p>Order on Application to Set Aside Conviction, MC 228.</p>	<p>Criminal Proceedings Benchbook, Vol. 3, Chapter 3</p>

Type of Motion	Authority	Time Requirements	Relevant Court Form(s)	MJIBenchbook Discussion
<p>Motion to Set Aside one or more Misdemeanor Convictions other than Serious Misdemeanors, a First Violation Operating While Intoxicated Offense, or Assaultive Crime Misdemeanors</p>	<p>MCL 780.621 et seq.</p>	<p>Must be filed 3 or more years after whichever of the following occurs last: -Imposition of the sentence for the conviction that the applicant seeks to set aside. -Completion of any term of imprisonment imposed for the conviction that the applicant seeks to set aside. -Completion of probation imposed for the conviction or convictions that the applicant seeks to set aside. MCL 780.621d(3)(a)-(c).</p> <p>If petition denied, must wait 3 years before filing another petition concerning same conviction(s) unless earlier date specified. MCL 780.621d(5). ***** For victim of human trafficking violation, at any time following date of conviction to be set aside. MCL 780.621d(6). May apply to have more than one conviction set aside under MCL 780.621(3). MCL 780.621d(6).</p>	<p>Order on Application to Set Aside Conviction, MC 228.</p>	<p>Criminal Proceedings Benchbook, Vol. 3, Chapter 3</p>
<p>Motion for Habeas Corpus Relief</p>	<p>MCR 3.303; MCR 3.304; MCL 600.4301 et seq.</p>	<p>At any time. MCR 3.303; MCR 3.304; MCL 600.4301 et seq.</p>	<p>Writ of Habeas Corpus, MC 203.</p>	<p>Criminal Proceedings Benchbook, Vol. 3, Chapter 4</p>
<p>Postjudgment Motion to Amend Restitution</p>	<p>MCR 6.430</p>	<p>When there is “new or updated information related to the injury, damages, or loss for which the restitution was ordered.” MCR 6.430(A).</p> <p>A response to the motion, if filed, must comply with the time for service of the response in MCR 2.119(C)(2).</p>	<p>Coming soon.</p>	<p>Criminal Proceedings Benchbook, Vol. 3, Chapter 1</p>