

# Order

Michigan Supreme Court  
Lansing, Michigan

May 15, 2019

Bridget M. McCormack,  
Chief Justice

ADM File No. 2017-27

David F. Viviano,  
Chief Justice Pro Tem

Amendment of  
Rule 6.425 of the  
Michigan Court Rules

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Stephen J. Markman  
Brian K. Zahra  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh,  
Justices

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 6.425 of the Michigan Court Rules is adopted, effective September 1, 2019.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

## Rule 6.425 Sentencing; Appointment of Appellate Counsel

(A)-(D) [Unchanged.]

(E) Sentencing Procedure.

(1) The court must sentence the defendant within a reasonably prompt time after the plea or verdict unless the court delays sentencing as provided by law. At sentencing, the court must, on the record:

(a)-(d) [Unchanged.]

(e) if the sentence imposed is not within the guidelines range, articulate the ~~substantial and compelling~~ reasons justifying that specific departure, and

(f) [Unchanged.]

(2)-(3) [Unchanged.]

(F) Advice Concerning the Right to Appeal; Appointment of Counsel.

(1) In a case involving a conviction following a trial, immediately after imposing sentence, the court must advise the defendant, on the record, that

(a)-(b) [Unchanged.]

(c) the request for a lawyer must be filed~~made~~ within 42 days after sentencing.

(2) In a case involving a conviction following a plea of guilty or nolo contendere, immediately after imposing sentence, the court must advise the defendant, on the record, that

(a)-(b) [Unchanged.]

(c) the request for a lawyer must be filed~~made~~ within 42 days after sentencing.

(3) The court also must give the defendant a request for counsel form containing an instruction informing the defendant that the form must be completed and filed~~returned to the court~~ within 42 days after sentencing if the defendant wants the court to appoint a lawyer. The court must give the defendant an opportunity to tender a completed request for counsel form at sentencing if the defendant wishes to do so.

(4) A request for counsel must be deemed filed on the date on which it is received by the court or the Michigan Appellate Assigned Counsel System (MAACS), whichever is earlier.

(54) [Renumbered but otherwise unchanged.]

(G) Appointment of Lawyer and Preparation of Transcript; Scope of Appellate Lawyer's Responsibilities.

(1) Appointment of Lawyer and Preparation of Transcript.

(a) All requests for the appointment of appellate counsel must be granted or denied on forms approved by the State Court Administrative Office and provided by ~~through the Michigan Appellate Assigned Counsel System (MAACS).~~

(b)-(d) [Unchanged.]

- (e) In a case involving a conviction following a trial, if the defendant's request for a lawyer was ~~filed~~<sup>made</sup> within the time for filing a claim of appeal, the order must be entered on an approved form entitled "Claim of Appeal and Appointment of Counsel." Entry of the order by the trial court pursuant to this subrule constitutes a timely filed claim of appeal for the purposes of MCR 7.204.

(f)-(g) [Unchanged.]

(2) [Unchanged.]

*Staff Comment:* The amendment of MCR 6.425 makes the rule consistent that requests for counsel must be completed and filed with the court or submitted to MAACS within 42 days after sentencing and allows defendants the opportunity to tender a completed form at sentencing. It also removes the requirement for a sentencing judge to articulate substantial and compelling reasons to deviate from the guidelines range, pursuant to *People v Lockridge*, 498 Mich 358; 870 NW2d 502 (2015).

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, 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 15, 2019

Clerk