

Order

Michigan Supreme Court
Lansing, Michigan

April 1, 2021

Bridget M. McCormack,
Chief Justice

ADM File No. 2019-35

Amendment of Rule
6.502 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
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 MCR 6.502 of the Michigan Court Rules is adopted, effective May 1, 2021.

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

Rule 6.502 Motion for Relief from Judgment

(A)-(F) [Unchanged.]

(G) Successive Motions.

- (1) Except as provided in subrule (G)(2), regardless of whether a defendant has previously filed a motion for relief from judgment, after August 1, 1995, one and only one motion for relief from judgment may be filed with regard to a conviction. ~~The court shall return without filing any successive motions for relief from judgment. A defendant may not appeal the denial or rejection of a successive motion.~~
- (2) A defendant may file a second or subsequent motion based on a retroactive change in law that occurred after the first motion for relief from judgment was filed or a claim of new evidence that was not discovered before the first such motion was filed. The clerk shall refer a successive motion ~~that asserts that one of these exceptions is applicable~~ to the judge to whom the case is assigned for a determination whether the motion is within one of the exceptions.

The court may waive the provisions of this rule if it concludes that there is a significant possibility that the defendant is innocent of the crime. For

motions filed under both (G)(1) and (G)(2), the court shall enter an appropriate order disposing of the motion.

(3) [Unchanged.]

Staff comment: The amendment of MCR 6.502 eliminates the requirement to return successive motions to the filer and eliminates the prohibition on appeal of a decision made on a motion for relief from judgment. Further, it requires all such motions to be submitted to the assigned judge, and requires a trial court to issue an order when it rejects or denies relief.

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.

April 1, 2021

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk