



**STATE OF MICHIGAN**  
COURT OF APPEALS

CHRISTOPHER M. MURRAY  
CHIEF JUDGE

January 28, 2020

Anne M. Boomer  
Michigan Supreme Court  
925 W. Ottawa  
P.O. Box 30052  
Lansing, MI 48909

**Re: ADM File No. 2018-34**

Dear Ms. Boomer:

On behalf of the Court of Appeals, I offer the following comments regarding ADM 2018-34, the proposed revision to MCR 6.425(G)(1)(d). While we support the goal of informing criminal defendants that denial of appointed counsel may be appealed, we believe that the language should make clear that such an appeal would be by application for leave to appeal.

Currently, an order denying appointed counsel is appealable by application for leave to appeal. Our understanding is that the revision is not intended to alter the discretionary jurisdiction of these appeals; it is only to inform the defendant of the ability to appeal the decision. However, use of the phrase "the right to seek appellate review" may give the impression that an appeal of right may be filed from an order denying the appointment of counsel. To avoid ambiguity on that point, the Court offers the following alternative language for the final sentence of MCR 6.425(G)(1)(d):

An order denying a request for the appointment of appellate counsel~~A denial of counsel~~ must include a statement of reasons and must inform the defendant that the order denying the request may be appealed by filing an application for leave to appeal in the Court of Appeals in accordance with MCR 7.205.

We believe that this language would fully accomplish the objectives of the proposal while making clear the proper basis and form of the appeal.

Very truly yours,

A handwritten signature in blue ink, appearing to read "CMM", written over a blue horizontal line.

Christopher M. Murray

CMM/vap