

December 15, 2020

Larry S. Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2019-35 – Proposed Amendment of Rule 6.502 of the Michigan Court Rules

Dear Clerk Royster:

At its November 20, 2020 meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2019-35. In its review, the Board considered recommendations from the Access to Justice Policy and Criminal Jurisprudence & Practice committees, and the Appellate Practice Section. The Board voted unanimously to support the rule change with two amendments.

To simplify the rule and remove redundancies, the Board recommends that Rule 6.502(G)(1) be modified as follows:

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 Board also recommends amending Rule 6.502(G)(2) to clarify that the retroactive change in law must occur after the motion for relief from judgment was filed – as opposed to some other date related to the motion, such as it being decided. The Board’s recommended amendment is as follows:

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.

We thank the Court for the opportunity to comment on the proposed amendment.

Sincerely,



Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Robert J. Buchanan, President