

Order

Michigan Supreme Court
Lansing, Michigan

March 22, 2023

Elizabeth T. Clement,
Chief Justice

ADM File No. 2020-29

Amendment of Rule
410 of the Michigan
Rules of Evidence

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
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 410 of the Michigan Rules of Evidence is adopted, effective May 1, 2023.

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

Rule 410 Inadmissibility of Pleas, Plea Discussions, and Related Statements

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

- (1) A plea of guilty which was later withdrawn or vacated;
- (2) [Unchanged.]
- (3) Any statement made in the course of any proceedings under MCR 6.302 or MCR 6.310 or comparable state or federal procedure regarding either of the foregoing pleas; or
- (4) Any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn or vacated.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought in fairness be considered contemporaneously with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

Staff Comment (ADM File No. 2020-29): The amendment in this file adds vacated pleas to the list of guilty pleas that may not be used against defendant. In addition, the amendment adds a reference to MCR 6.310 in subsection (3), which makes inadmissible statements made during a proceeding on defendant's motion to withdraw his or her plea and statements made during the prosecution's motion to vacate a plea for failure to comply with the terms of a plea agreement.

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.

March 22, 2023

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

Clerk