

Order

Michigan Supreme Court
Lansing, Michigan

May 21, 2025

Megan K. Cavanagh,
Chief Justice

ADM File No. 2022-34

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas,
Justices

Amendments of Rules
3.993 and 6.428 of the
Michigan Court Rules

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 amendments of Rules 3.993 and 6.428 of the Michigan Court Rules are adopted, effective September 1, 2025.

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

Rule 3.993 Appeals

(A)-(E) [Unchanged.]

(F) A respondent may file a motion to restore their appellate rights as provided in this subrule. If a respondent was denied the right to appellate review or the appointment of appellate counsel due to errors by the respondent's prior attorney or the court, or other factors outside the respondent's control, the trial court must issue an order restarting the time in which to file an appeal or request counsel, except that the court must not issue any order that would extend the time for appealing an order terminating parental rights beyond 63 days from entry of the order terminating rights.

(1) A motion premised on the respondent being denied the right to appellate review must be filed within a reasonable time after an order identified in subrule (A) was entered or, if applicable, within a reasonable time after the respondent's claim of appeal was dismissed. For purposes of this paragraph, a motion filed within 2 years after the date an order identified in subrule (A) was entered or a motion filed within 1 year after the date on which the respondent's claim of appeal was dismissed is presumed reasonable.

(2) A motion premised on the respondent being denied the appointment of appellate counsel must be filed within a reasonable time after being denied the appointment of appellate counsel. For purposes of this paragraph, a motion filed within 2 years of the date an order denying appointment of counsel was entered is presumed reasonable.

- (3) A motion under this subrule will not be considered if it alleges grounds for relief that were resolved against that respondent in a prior proceeding or appeal.
- (4) A respondent filing an appeal after receiving an order issued under this subrule must provide the Court of Appeals with a copy of the order when filing the appeal with the claim of appeal or application for leave to appeal. The Court of Appeals can excuse this requirement for good cause.
- (5) In determining a “reasonable time” under this subrule, the court must consider whether factors existed outside the respondent’s control that contributed to the delay in filing a motion under this subrule.

Rule 6.428 Restoration of Appellate Rights

A defendant may file a motion to restore appellate rights as provided in this rule. If the defendant, whether convicted by plea or at trial, was denied the right to appellate review or the appointment of appellate counsel due to errors by the defendant’s prior attorney or the court, or other factors outside the defendant’s control, the trial court shall issue an order restarting the time in which to file an appeal or request counsel.

- (A) A motion premised on the defendant being denied the right to appellate review must be filed within a reasonable time after the trial court entered the final judgment or order that the defendant sought to appeal or, if applicable, within a reasonable time after the date on which the defendant’s claim of appeal was dismissed. For purposes of this subrule, a motion filed within 2 years after the trial court entered the final judgment or order that the defendant sought to appeal or a motion filed within 1 year after the date on which the defendant’s claim of appeal was dismissed is presumed reasonable.
- (B) A motion premised on the defendant being denied the appointment of appellate counsel must be filed within a reasonable time after being denied the appointment of appellate counsel. For purposes of this paragraph, a motion filed within 2 years of the date an order denying appointment of counsel was entered is presumed reasonable.
- (C) A motion under this rule will not be considered if it alleges grounds for relief which were resolved against that defendant in a prior proceeding or appeal.
- (D) A defendant filing an appeal after receiving an order issued under this subrule must provide the Court of Appeals with a copy of the order when filing the appeal with

the claim of appeal or application for leave to appeal. The Court of Appeals can excuse this requirement for good cause.

- (E) In determining a “reasonable time” under this rule, the court must consider whether factors existed outside the defendant’s control that contributed to the delay in filing a motion under this rule.

Staff Comment (ADM File No. 2022-34): The amendment of MCR 3.993 adds a new subrule (F) to provide for the restoration of appellate rights in juvenile cases, similar to that of criminal cases under MCR 6.428. In addition, the amendments of MCR 3.993 and MCR 6.428 require that a motion be filed within a reasonable time and establish a presumption of reasonableness. Furthermore, both amendments clarify that a motion for restoration of appellate rights is limited to grounds for relief not raised in a prior proceeding or appeal, as well as require parties to provide the Court of Appeals with a copy of the order restoring appellate rights when filing the appeal unless the Court of Appeals directs otherwise.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or 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 21, 2025

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

Clerk