Order

Michigan Supreme Court
Lansing, Michigan

Megan K. Cavanagh,
Chief Justice

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

November 18, 2026

ADM File No. 2024-15

Addition of Rule 6.426 and Amendments of Rules 7.216 and 7.315 of the Michigan Court Rules

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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 addition of Rule 6.426 and amendments of Rules 7.216 and 7.315 of the Michigan Court Rules are adopted, effective January 1, 2027.

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

[NEW] Rule 6.426 Appointment of Appellate Counsel Following Remand by Michigan Supreme Court

(A) Appointment of Lawyer on Remand; Scope of Appellate Lawyer's Responsibilities.

(1) Appointment of Lawyer on Remand.

(a) All requests for the appointment of appellate counsel must be granted or denied on forms approved by the State Court Administrative Office and provided by MAACS.

(b) Within 7 days after receiving an order from the Court of Appeals remanding a case to the court for a determination of indigency under MCR 7.216(D), the trial court must submit the request, the judgment of sentence, the register of actions, and any additional requested information to MAACS under procedures approved by the Appellate Defender Commission for the preparation of an appropriate order granting or denying the request. The court must notify MAACS if it intends to deny the request for counsel.

(c) Within 7 days after receiving a request and related information from the trial court, MAACS must provide the court with a proposed order appointing appellate counsel or denying the appointment of appellate counsel. A proposed appointment order must name the State

Appellate Defender Office (SADO) or an approved private attorney who is willing to accept an appointment for the appeal.

(d) Within 7 days after receiving a proposed order from MAACS, the trial court must rule on the request for a lawyer. If the defendant is indigent, the court must enter an order appointing a lawyer. An order denying a request for the appointment of appellate 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.

(e) The trial court must serve MAACS with a copy of its order granting or denying a request for a lawyer. Unless MAACS has agreed to provide the order to any of the following, the trial court must also serve a copy of its order on the defendant, defense counsel, and the prosecutor.

(B) Scope of Appellate Lawyer's Responsibilities. The responsibilities of the appellate lawyer appointed to represent the defendant include representing the defendant

(1) in available postconviction proceedings in the trial court the lawyer deems appropriate,

(2) in postconviction proceedings in the Court of Appeals,

(3) in available proceedings in the trial court the lawyer deems appropriate under MCR 7.208(B) or 7.211(C)(1), and

(4) as appellee in relation to any postconviction appeal taken by the prosecutor.

Rule 7.216 Miscellaneous Relief

(A)-(C) [Unchanged.]

(D) Appointment of Counsel Following Supreme Court Remand. Upon remand by the Supreme Court of a criminal case on direct appeal involving an in pro per defendant, the Court of Appeals must determine whether prior appellate counsel is available to represent the defendant in the remand proceedings. If not, the Court of Appeals must remand the case to the trial court for appointment of appellate counsel under MCR 6.426.

Rule 7.315 Opinions, Orders, and Judgments

(A)-(D) [Unchanged.]

(E) An order remanding a criminal case on direct appeal to the Court of Appeals that involves a pro per defendant must include language advising the defendant that the defendant has the right to counsel and that if the defendant is unable to afford a lawyer, one may be appointed in accordance with MCR 7.216(D).

Staff Comment (ADM File No. 2024-15): The addition of MCR 6.426 and amendments of MCR 7.216 and 7.315 ensure that self-represented criminal defendants are advised of the right to counsel in remand proceedings from the appellate courts and facilitate the appointment of such counsel.

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, Elizabeth Kingston-Miller, 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.

November 18, 2026

Clerk