

Order

Michigan Supreme Court
Lansing, Michigan

March 11, 2020

Bridget M. McCormack,
Chief Justice

ADM File No. 2014-46

David F. Viviano,
Chief Justice Pro Tem

Amendment of Rule
6.508 of the Michigan
Court Rules

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
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 6.508 of the Michigan Court Rules is adopted, effective May 1, 2020.

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

Rule 6.508 Procedure; Evidentiary Hearing; Determination

(A)-(C) [Unchanged.]

(D) Entitlement to Relief. The defendant has the burden of establishing entitlement to the relief requested. The court may not grant relief to the defendant if the motion

(1) [Unchanged.]

(2) alleges grounds for relief which were decided against the defendant in a prior appeal or proceeding under this subchapter, unless the defendant establishes that a retroactive change in the law has undermined the prior decision; for purposes of this provision, a court is not precluded from considering previously-decided claims in the context of a new claim for relief, such as in determining whether new evidence would make a different result probable on retrial, or if the previously-decided claims, when considered together with the new claim for relief, create a significant possibility of actual innocence;

(3) [Unchanged.]

(E) [Unchanged.]

Staff Comment: The amendment of MCR 6.508 allows a court to consider previously-decided claims in the context of a new claim for relief, consistent with footnote 17 in *People v Johnson*, 502 Mich 541 (2018) or where such previously-decided claims (in conjunction with a new claim) create a significant possibility of actual innocence.

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 11, 2020

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

Clerk