

Order

**Michigan Supreme Court
Lansing, Michigan**

November 15, 2017

Stephen J. Markman,
Chief Justice

ADM File No. 2014-36

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder,
Justices

Administrative Order No. 2017-3

Merger of the State Appellate Defender
Office (SADO) and Michigan Appellate
Assigned Counsel System (MAACS)

Michigan’s Appellate Defender Act, 1978 PA 620, established an Appellate Defender Commission to oversee a system of criminal appellate defense services for indigents. The Act provides in part that “[t]he appointment of criminal appellate defense services for indigents shall be made by the trial court from the roster provided by the commission or shall be referred to the office of the state appellate defender.” MCL 780.712(6).

In Administrative Order No. 1981-7, this Court directed the Commission to “establish an Appellate Assigned Counsel Administrator’s Office which shall be coordinated with but separate from the State Appellate Defender Office.” The office was “to compile and maintain a statewide roster of attorneys eligible and willing to accept criminal appellate defense assignments,” and the Court approved regulations to govern both the appointment process and the assigned counsel roster. In 1985, however, the Court determined that under the Appellate Defender Act, “the regulations governing a system for appointment of appellate counsel for indigents in criminal cases” should fall to “the Appellate Defender Commission and not to this Court.” See Administrative Order No. 1985-3. See also Administrative Order No. 1989-3. The same year, the Michigan Appellate Assigned Counsel System (MAACS) began operating as an independent state agency under regulations adopted by the Commission.

In 2014, at the request of the Appellate Defender Commission, the Court ordered an operational merger of MAACS with the State Appellate Defender Office (SADO) under the management of the State Appellate Defender “to promote efficiency and improve the administration of assigned appellate counsel for indigent defendants.” Administrative Order No. 2014-18. The Court directed the Commission “to review operations of the MAACS and submit a proposed administrative order that reflects the consolidation of the two offices and incorporates proposed updates or revisions that the commission recommends.”

The Commission has overseen the merger of SADO and MAACS and conducted an exhaustive review of operations to improve indigent criminal appellants' access to competent counsel with shared resources and expertise. As part of that review, the Commission has monitored a pilot project approved by the Court to "assess the feasibility, costs, and benefits associated with structural reforms" including the regional consolidation of trial court assignment lists, the voluntary implementation of a uniform attorney fee policy, the trial courts' delegation of certain administrative responsibilities to MAACS, the pre-screening of counsel, and the electronic transfer of documents related to the appointment process. See Administrative Order No. 2015-9. The Commission reports that these reforms have improved the speed and efficiency of the assignment process as well as the quality of assigned appellate representation, and have been well-received by courts and counsel alike.

Therefore, at the request of the Appellate Defender Commission, the Court orders that the Commission shall remain responsible for enacting regulations to govern the MAACS roster and the selection of felony appellate assigned counsel, including SADO's appropriate share of appellate appointments under MCL 780.716(c). The Commission may approve policies to facilitate the regional consolidation of appellate assignment lists for private assigned counsel, including a voluntary attorney fee and expense policy for participating trial courts.

Trial courts shall address all requests for the appointment of felony appellate counsel under the regulations and procedures approved by the Commission and in conformity with applicable court rules. The Court has reviewed the regulations adopted by the Commission on September 20, 2017, and directs the Commission to notify the Court of any updates or changes to these regulations.

This Order supersedes Administrative Orders 1981-7, 1985-3, and 1989-3.



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.

November 15, 2017

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

Clerk