

# MINUTES OF THE CRIMINAL LAW SECTION

## STATE BAR OF MICHIGAN

January 18, 2011

Members Present: Michael J. Brady, David E. Gilbert, Steve B. Lockhart, Graham L. Teall, Stephen J. Gobbo, Charles H. Marr, M. Jon Posner, Kiana Franulic, Barbara R. Levine, Matthew P. Smith, Stephen M. Taratuta. Lynn B. D’Orio, Kenneth M. Malkin, Hon. David Hoort, Opolla Brown.

Also Present: Thomas Rombach, Bruce Timmons, Elaine Spiliopoulos, Sherrie Guess, Russell Church.

Absent with Notice: Gerald S. Surowiec, Daniel M. Levy, Jonathon Sacks, Ward F. McDonough, Jr., Michael J. Marutiak.

- I. Call to Order by Chairperson Malkin 6:38 p.m.
- II. Approval of Minutes- moved and seconded, approved unanimously
- III. Treasurer’s Report- moved and seconded, unanimous approval- Presented by Judge Hoort, much discussion regarding the budget for following years, and the costs of invited and uninvited guests- as we are required to inform the club of our number prior to the meeting or face a penalty, it was decided in the future, if you wish to invite someone, either have it authorized ahead of time by Chairperson, or the guest pays their own way.
- IV. Committee Reports
  - a. Bylaws- Charles Marr- suggested changes to bylaws, requested any additions or corrections by Shanty Creek meeting as he would like the final draft for that meeting- reviewed and discussed changes- regarding elections- issue of person in the chain of leadership not getting re-elected- held a consensus that the chair elect ***and*** all other officers would not have to run for election and therefore not risk a hole in the chain. Vote 14-1
  - b. Shanty Creek- Steve Taratuta- Everything set
  - c. Mackinaw Island- Charles Marr- nothing new, looking for fallback subject regarding medical marijuana
  - d. Young Lawyers- Opolla Brown- Kiana Franulic suggested seminars for young lawyers on sentencing guidelines and search and seizure
  - e. Membership Committee
  - f. Budget Committee- Judge Hoort discussed changes, will meet again at Shanty Creek to fine tune proposals- discussion about raising dues.
  - g. Indigent Defense Funding- Barbara Levine- thinking about a brainstorming committee to find way to raise money to reach the legislature
  - h. Annual Meeting- Chair appoints Barbara Levine, Ward McDonough, Sherry Guess and [chair] Mike Brady
- V. Legislation and Court Rules

- a. Defense Access to LEIN [newsletter]- impeachment Evidence against government witnesses
  - b. MCR 6.005- Defense Response to Pre-conviction appeals- Motion to oppose because an attorney should file something; the rule creates an excuse for defense attorneys to not respond without just cause. Motion to oppose amendment passes: 15 for opposition; 0 for amendment; 0 abstentions.
  - c. MCR 6.425 & 7.210 Sentencing departure form- Motion to Oppose passes 15-0-0; Reason- there is already a record made during court; the court should place departure reasons on the record during court at the time of sentencing and not at a later time where it may go unchallenged.
  - d. Legislative Report- Bruce Timmons
- VI. Chair's Report
- a. Scholarships- off agenda
  - b. Lobbyist- should continue looking at, discussed the expense
  - c. Diversity & inclusion- State Bar President asked for us to sign a Pledge of Diversity; may invite a speaker- Judge Hoort moves to adopt diversity pledge, supported by Marr, to rename "Membership Committee" to "Membership and Diversity Committee"- passed 14 for 0 opposed 1 abstain.
  - d. Absences without notice- David Leyton has not appeared for a number of weeks, beyond the number requiring replacement. To speak to prosecuting attorneys association
- VII. Next Meeting February 15, 2011 at Shanty Creek- Adjourn 9:29 p.m.

Respectfully Submitted,

/David E. Gilbert/  
David E. Gilbert  
Secretary, Criminal Law Section