



Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard
Annapolis, Maryland 21401-1699

MARY ELLEN BARBERA
Chief Judge

November 1, 2014

Honorable Edward J. Kasemeyer
Chairman, Senate Budget and Taxation Committee
3 West, Miller Senate Building
Annapolis, Maryland 21401-1991

Honorable Norman H. Conway
Chairman, House Appropriations Committee
Lowe House Office Building, Room 131
Annapolis, Maryland 21401-1991

Re: Appellate Case Time Standards Performance Results
2012_p5_JUD_Report on Appellate Court Caseload Standards

Gentlemen:

Pursuant to the 2012 *Joint Chairmen's Report*, the Judiciary herein submits its report on Appellate Case Time Standards Performance Results.

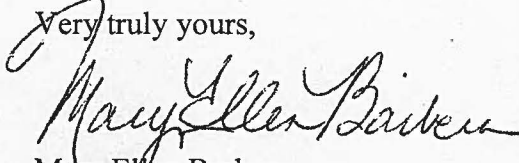
In recognition of the profound impact that the efficient processing of cases has on all those with business before the courts, the appellate courts of Maryland developed and adopted case time standards in Fall 2013. The standards, applicable to the Court of Appeals and Court of Special Appeals, serve to further the Judiciary's enduring commitment to the expedient and timely adjudication of cases, which began in Maryland's trial courts over a decade ago.

The appellate case time standards became effective for the September 2013 Term of the Court of Appeals, and provide that all cases argued within a Term of Court are to be decided prior to the Term's conclusion. In the initial year of measurement, the Court of Appeals achieved its goal of disposing of all cases argued within the September 2013 Term. The Court will strive to continue to meet this goal in future years.

The Court of Special Appeals' case time standards, which became effective for all cases disposed in Fiscal Year 2014, hold that 80 percent of direct appeals are to be disposed within nine months (270 days) of argument or submission of the case on the briefs. In Fiscal Year 2014, the Court of Special Appeals performed at or better than the standard, disposing of 88 percent of its

combined criminal and civil appeal cases within nine months. The only exceptions to attaining the case time standard goals occurred in child access-related cases, such as Child in Need of Assistance and Termination of Parental Rights cases. The Court will continue to examine ways to expedite these matters, while ensuring that the quality of justice is not sacrificed.

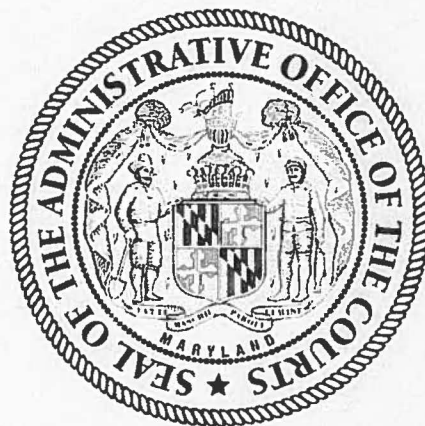
With the attainment of most of the appellate case processing goals in the initial year of measurement, the Courts of Appeal will continue to work to adjudicate cases in a timely manner while upholding the tenets of fair and equitable justice.

Very truly yours,

Mary Ellen Barbera

cc: Honorable James DeGrange, Sr., Chairman, Public Safety, Transportation and Environment Subcommittee
Honorable Guy Guzone, Chairman, Public Safety and Administration Subcommittee
Honorable Peter B. Krauser, Chief Judge, Court of Special Appeals
Honorable Thomas G. Ross, Chair, Conference of Circuit Judges
Honorable John P. Morrissey, Chief Judge, District Court
Bessie M. Decker, Clerk, Court of Appeals
Gregory Hilton, Clerk, Court of Special Appeals
Pamela Harris, State Court Administrator
Faye Matthews, Deputy State Court Administrator
Kelley O'Connor, Assistant Administrator, Government Relations
Philip Gallegos, Budget Analyst, Department of Budget and Management
Matthew Bennett, Policy Analyst
Chantelle Green, Policy Analyst
Jordan More, Legislative Analyst, Department of Legislative Services

Analysis of Case Processing Performance in the Court of Special Appeals

Fiscal Year 2014



Administrative Office of the Courts

November 2014

Analysis of Case Processing Performance in the Court of Special Appeals

Fiscal Year 2014

Introduction

The Court of Special Appeals adopted case time standards for the first time in Fiscal Year 2014. The Standards reflect the processing time within which the Court has significant control over the movement of cases toward disposition. The civil and criminal direct appeal standards specify that 80 percent of appeals are to be disposed within 9 months (270 days) of argument or submission of the case on the briefs.

Decisions or opinions for certain cases involving child access, guardianship, Child in Need of Assistance (CINA), Termination of Parental Rights (TPR), as well as State appeals from the pretrial suppression of evidence are handled according to applicable law and Rules of Procedure.

The Court's time standards contain a number of case time suspensions, during which case aging is stayed for bankruptcy, mediation, the pendency of related cases or issues in the Court of Special Appeals or a different court, and several other reasons.

See **Appendix A** for the complete table of case time standards for the Court of Special Appeals.

Methodology

The present analysis of case processing performance in the Court of Special Appeals is based on all appeals disposed by the Court in Fiscal Year 2014 (July 1, 2013 through June 30, 2014). The original date of disposition was used to stop case time.¹

All data required to measure case processing time for cases disposed in Fiscal Year 2014 were individually extracted from the Court of Special Appeals' mainframe database in August and September, 2014, and transferred to customized data collection forms. Pertinent data fields collected included, Case Number, Caption (Case Title), Filing of Record Date, Date of Argument (or Submission on Brief, where applicable), and the Date of Order or Disposition.

All data used in the present analysis are as recorded in the mainframe database. The data were cross-checked and validated for accuracy before being entered into an Excel spreadsheet. Prior to analysis, a final internal validity check was completed on the dataset.

¹ Certain appeals may contain reconsidered opinions or dates of disposition. This may occur, for instance, when the Court of Appeals grants a writ of certiorari and the original disposition is vacated. In such instances, the present analysis uses the original disposition date to stop case time.

Performance results in this analysis are provided by case type, as well as for “reported” versus “unreported” cases. Generally, appellate courts issue a reported decision on cases that, (1) establish new law, (2) clarify or qualify settled law (based on unusual facts or circumstances in the lower courts), (3) restate a principle of law that has not been discussed recently, or (4) are cases of important public interest. In the Court of Special Appeals, the panel of judges that hears a case recommends to the entire Court the publication of an opinion. The full court then votes on whether to issue a reported or unreported opinion.

Overall Performance Results

Performance results for Fiscal Year 2014 show that, with the exception of certain special cases,² the Court of Special Appeals is generally processing cases faster than the 9 month (270 day) standard developed by the Judiciary for civil and criminal cases.

Civil and Criminal Cases

The Court of Special Appeals processed 88% of its combined criminal and civil appeals cases within the 9 month (270 day) goal in Fiscal Year 2014, exceeding the goal by 8%. Further analysis shows that the Court disposed of a slightly higher percentage of criminal cases than civil cases within the standard (at 89% for criminal and 87% for civil), in Fiscal Year 2014.

The data were further analyzed to determine if a difference existed in how the Court processed reported versus unreported cases. In Fiscal Year 2014, the Court disposed of more unreported cases within the standard than they did reported cases (at 89% within-standard among unreported cases compared to 82% within-standard for reported cases). It was found that 80% of the Court’s reported criminal cases were processed within-standard, as well as 82% of reported civil cases. The Court’s unreported appeals disposed in Fiscal Year 2014 performed at an even higher level, with 90% of unreported criminal appeals and 88% of unreported civil appeals disposed within-standard in that year.

² Special cases for the purpose of this study include cases identified where child access issues are to be decided (custody, guardianship, Child In Need of Assistance (CINA), Termination of Parental Rights (TPR)); State Appeals from the Pretrial Suppression of Evidence; and Elective Expedited Appeals. These cases are analyzed separately pursuant to special timeliness standards contained in applicable laws or Rules of Procedure.

**Table 1. Criminal & Civil Cases Disposed within Time Standard Goals,
Court of Special Appeals, Fiscal Year 2014**

<u>Judiciary Goals</u>
<u>Criminal & Civil Cases</u>
<i>Argument/Submission on Brief to Disposition</i>
80% within 9 Months (270 Days)

Cases Disposed Within Time Standard Goals

Case Type	Fiscal Year 2014 Dispositions	All Cases		Reported Opinions			Unreported Opinions		
		N / (%)		N / (%)			N / (%)		
		<i>Cases Within- Standard</i>	% Within- Standard	Total	<i>Cases Within- Standard</i>	% Within- Standard	Total	<i>Cases Within- Standard</i>	% WST
		<i>N</i>		<i>N</i>	<i>N</i>		<i>N</i>	<i>N</i>	
Criminal¹	647	577	89%	46	37	80%	601	540	90%
Civil²	773	674	87%	102	84	82%	671	590	88%
Combined Criminal & Civil Cases	1,420	1,251	88%	148	121	82%	1,272	1,130	89%

¹ Criminal appeals do not include State appeals from the pretrial suppression of evidence (n=3). Performance results for these appeals are provided in Table 2.

² Civil cases include regular Civil appeals, Juvenile Delinquency appeals, and Child Access and guardianship appeals. Child Access and guardianship appeals are subject to additional case time standards, as shown in Table 3, as well as the general Civil appeals case time standard.

An examination of the overall average time from argument to disposition for disposed appeals in Fiscal Year 2014 shows similar results for criminal (127 days) and civil (117 days) cases. Juvenile delinquency cases (a civil case sub-type) showed a somewhat higher average case time in Fiscal Year 2014, at 157 days, but there were only 20 disposed juvenile delinquency appeals in the Court in Fiscal Year 2014. Overall median times from argument to disposition among the Court's disposed appeals in Fiscal Year 2014 were similar for Criminal (88 days) and Juvenile Delinquency (82 days) cases, and were the lowest among disposed Civil appeals (53 days).

**Table 2. Overall Average & Median Case Processing Times,
Court of Special Appeals, Fiscal Year 2014**

Case Type	Time Standard	Fiscal Year 2014 Overall Average & Median Case Times (in days)	
		Overall Average	Overall Median
Criminal		127	88
Civil (less Juvenile Delinquency)	270 Days	117	53
Juvenile Delinquency ¹	<i>Argument/Submission on Brief to Disposition</i>	157	82
Overall (Combined)		122	69

¹ Juvenile Delinquency cases are contained within the "Civil" appeal type in terms of the Court of Special Appeals' official Case Time Standards, but are analyzed separately in Table 2 to show comparative average and median case times only.

Special Cases

The Court of Special Appeals' Case Time Standards contain specialized timeliness provisions for certain appeal types pursuant to applicable laws or Maryland Rules of Procedure governing these appeals. Fiscal Year 2014 performance results among these "Special Cases" are shown in Table 3 below.

As shown, the Court met the goal of disposing of 100% of State Appeals from the Pretrial Suppression of Evidence cases within 120 days of filing of the record in Fiscal Year 2014. Child Access cases comprise the majority of the special cases, with 94 appeals disposed in Fiscal Year 2014. There are two case time standard goals for child access cases: the first standard calls for 98% of child access cases to be argued within 120 days from filing, and the second standard for 100% of child access cases to be disposed within 60 days post argument or submission on brief. Table 3 shows that the Court was able to meet the goal for Standard 1 in 12% of the cases ($n = 11$). The Court processed cases significantly faster on Standard 2, in which the time standard was attained on 93% of the cases ($n = 87$), falling just short of the 100% goal for Standard 2.

As described above in the context of direct civil and criminal appeals, the analysis showed that the Court performed equal to or better than the standard in most cases where it had substantial control or ability to impact the progression of cases toward disposition. The only instance where this was not true was for the Child Access Standard 2, where the Court missed the goal by 7%.

In cases where the Court had to rely on the actions of one or both parties to perform, the percentage of cases satisfying the standard was markedly lower. This was particularly true with Child Access Standard 1, which measures time from filing to argument/submission. It was noted that argument was frequently extended to permit late filing of briefs, transfer of records, and change in counsel in these cases. Many of these delays were not initiated by the Court, but were permitted by Court Order.

Table 3. Performance of Cases subject to Special Case Time Standard Goals, Court of Special Appeals, Fiscal Year 2014

Case Type	Case Time Start	Case Time Stop	Time Standard Goal		Fiscal Year 2014 Dispositions	Within-Standard	
			Days	%		N	%
Child Access/Guardianship/CINA/TPR, Standard 1 ¹	Filing of Record	Argument Held	120 Days	98%	94	11	12%
Child Access/Guardianship/CINA/TPR, Standard 2 ²	Argument or Submission on Brief	Disposition	60 Days	100%		87	93%
State Appeals from the Pretrial Suppression of Evidence ³	Filing of Record	Disposition	120 Days	100%	3	3	100%
Elective Expedited Appeals, Standard 1 ⁴	<u>Later of:</u> Filing of Appellee's brief or commencement of the next session of Court	Argument Held	45 Days	98%	- ⁶	N/A	N/A
Elective Expedited Appeals, Standard 2 ⁵	Argument of Submission on Brief	Decision	20 Days	98%	- ⁶	N/A	N/A

¹ Maryland Rule 8-207(a) (5).

² Maryland Rule 8-207(a) (5).

³ CJP § 12-302(c) (3).

⁴ Md. Rule 8-207(b).

⁵ Md. Rule 8-207(b).

⁶ The Court did not record any disposed appeals in Fiscal Year 2014 that met the criteria for an elective expedited appeal.

Analysis of Over-Standard Cases

An examination of cases disposed over-standard by the Court shows that a significant number of cases were closed shortly after the time standard goal. In Fiscal Year 2014, 20% of the over-standard civil and criminal cases were disposed within one month of the 270 day time standard.

Likewise, but to an even greater extent, analysis of child access cases showed that a significant number of over-standard cases were disposed shortly after the standard goal has passed. Forty-one percent (41%) of Standard 1 Child Access cases (filing to argument/submission) and 43% of Standard 2 (argument/submission to disposition) were disposed within one month after the respective case time standards in Fiscal Year 2014.

**Table 4. Analysis of Over-Standard Cases
Court of Special Appeals, Fiscal Year 2014**

Case Type	Time Standard	Number of Over-Standard Cases	Number and Percentage of Cases Closing Over-Standard			
			Within 1 week		Within 1 month	
			N	%	N	%
Criminal	270 Days	70	5	7%	14	20%
Civil (includes Delinquency)	270 Days	99	2	2%	20	20%
Child Access, Standard 1	120 Days (Filing of Record to Argument Held)	83	14	17%	34	41%
Child Access, Standard 2	60 Days (Argument/ Submission on Brief to Disposition)	7	1	14%	3	43%

APPENDIX A: Court of Special Appeals Case Time Standards

Court of Special Appeals Case Time Standards

Case Type	Time Standard	Case Time Start	Case Time Suspension		Case Time Stop	Comments
			Stay Begins (Suspend Begins)	Stay Ends (Suspend Ends)		
Civil	9 Months (80% Completed within standard)	Argument or Submission on Brief	<ul style="list-style-type: none"> ➤ Parties request a Stay. ➤ Suggestion of Bankruptcy. ➤ Request for or referral to mediation and stay. ➤ Consolidation with a related case. ➤ Notice of Pending case in the Court of Appeals with the same or related issue. ➤ Corrections to the record identified in argument. 	<ul style="list-style-type: none"> ➤ Stay is lifted by parties request or court order. ➤ Date of order lifting stay following information that the automatic stay has been lifted (relief from stay, dismissal or discharge). ➤ Order lifting stay following unsuccessful or partially successful mediation. ➤ Argument or submission of the latter of the two cases. ➤ Order lifting stay following notice of disposition of case in Court of Appeals. ➤ Granting of a motion to correct the record. 	Disposition: <ul style="list-style-type: none"> • Opinion filed. • Dismissal order filed. • Voluntary dismissal by appellant. • Mediation agreement and remand. • Transferred to Court of Appeals. 	

Court of Special Appeals Case Time Standards

Case Type	Time Standard	Case Time Start	Case Time Suspension		Case Time Stop	Comments
			Stay Begins (Suspend Begins)	Stay Ends (Suspend Ends)		
Criminal	9 Months (80% Completed within standard)	Argument or Submission on Brief	<ul style="list-style-type: none"> ➤ Parties request a Stay. ➤ Consolidation with a related case. ➤ Notice of Pending case in the Court of Appeals with the same or related issue. ➤ Corrections to the record identified in argument. 	<ul style="list-style-type: none"> ➤ Stay is lifted by parties request or court order. ➤ Argument or submission of the latter of the two cases. ➤ Order lifting stay following notice of disposition of case in Court of Appeals. ➤ Granting of a motion to correct the record. 	Disposition: <ul style="list-style-type: none"> • Opinion filed. • Dismissal order filed. • Voluntary dismissal by appellant. • Transferred to Court of Appeals. 	

Court of Special Appeals Case Time Standards

(SPECIAL CASES)

Case Type	Time Standard	Case Time Start	Case Time Suspension		Case Time Stop	Comments
			Stay Begins (Suspend Begins)	Stay Ends (Suspend Ends)		
Child Access/ Guardianship/ CINA/TPR Standard 1.	120 Days (98% Completed within standard)	Filing of Record	➤ None	➤ None	Argument held.	Md. Rule 8-207(a)(5)
Child Access/ Guardianship/ CINA/TPR Standard 2.	60 Days (100% Completed within standard)	Argument or Submission on Brief	➤ None	➤ None	Disposition: • Opinion filed. • Dismissal order filed. • Voluntary dismissal filed.	Md. Rule 8-207(a)(5)
State Appeals from the pretrial suppression of evidence.	120 Days (100% Completed within standard)	Filing of Record	➤ None	➤ None	Disposition: • Opinion filed. • Dismissal order filed. • Voluntary dismissal by State.	CJP § 12-302(c)(3).
Elective ¹ Expedited Appeals Standard 1.	45 Days (98% Completed within standard)	Later of filing of Appellee's brief or commencement of the next session of Court.	➤ None	➤ None	Argument held.	Md. Rule 8-207(b).

¹ The election must be a joint election executed by all parties. Md. Rule 8-207(b).

Court of Special Appeals Case Time Standards

(SPECIAL CASES)

Case Type	Time Standard	Case Time Start	Case Time Suspension		Case Time Stop	Comments
			Stay Begins (Suspend Begins)	Stay Ends (Suspend Ends)		
Elective Expedited Appeals Standard 2.	20 days (<u>or 30 days if submitted on brief</u>) (98% Completed within standard)	Argument or Submission on Brief	<ul style="list-style-type: none"> ➤ Identification of Extraordinary circumstances ➤ Panel of Court recommends reporting the opinion. 	<ul style="list-style-type: none"> ➤ Conclusion of extraordinary circumstance. ➤ Conclusion of the next scheduled conference. 	Decision: <ul style="list-style-type: none"> • Opinion filed. • Dismissal order filed. • Voluntary dismissal by appellant. 	Md. Rule 8-207(b).