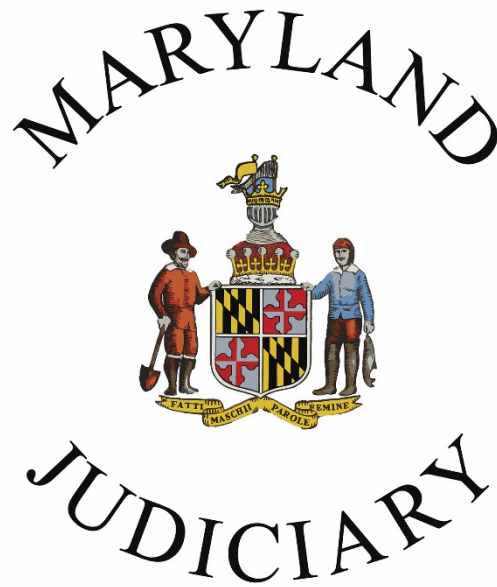


Analysis of Case Processing Performance in the Court of Special Appeals

Fiscal Year 2021



Administrative Office of the Courts

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Introduction

The Court of Special Appeals first adopted case time standards in Fiscal Year 2014. The standards reflect the processing time during which the Court has significant control over the progress of cases toward disposition. The civil and criminal direct appeal standards specify that the Court should dispose of 80% of appeals within 9 months (270 days) of argument or submission of the case on the briefs. Case time standards are central to the Maryland Judiciary's mission to provide fair, efficient, and effective justice for all.

Applicable laws and Maryland Rules govern decisions or opinions for cases involving child access: guardianship, a child in need of assistance (CINA), and termination of parental rights (TPR), as well as State appeals from the pretrial suppression of evidence and elective-expedited appeals.

The Court's time standards include case time suspensions. These suspensions stay case aging for reasons such as bankruptcy, mediation, or the pendency of related cases or issues in the Court of Special Appeals, or a different court.

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

This report contains performance results towards the Court's case time standards during Fiscal Year 2021 (July 1, 2020 through June 30, 2021). During that time, the Judiciary operated under Phase II through Phase V guidelines as outlined in the [Exhibit](#) to the Third Amended Administrative Order Expanding Statewide Judiciary Operation in Light of the COVID-19 Emergency (August 6, 2021). Under these provisions, the Court of Special Appeals remained fully operational, with proceedings occurring remotely as appropriate.¹

Methodology

The present analyses of case processing performance in the Court of Special Appeals focus on appeals disposed by the Court in Fiscal Year 2021 (July 1, 2020 through June 30, 2021). Case time ends, for present purposes, at the original appellate disposition date.²

Data in the present analyses are extracted from the Maryland Electronic Court (MDEC) case management system through custom reports³. A final data quality review involved comparing data retrieved from MDEC to data from the Clerk of the Court of Special Appeals.

This report provides performance results by case type and separately for cases involving reported and unreported opinions. Appellate courts typically issue reported opinions in cases that either establish new law, clarify or qualify existing law, restate a principle of law not discussed

¹ The Administrative Order (including the Exhibit) is available at <https://mdcourts.gov/sites/default/files/admin-orders/20210806thirdamendedorderexpandingstatewidejudiciaryoperationsinlightofthecovid19emergency.pdf>.

² Some appeals may contain reconsidered opinions or dates of disposition. This may occur if, for example, the Court of Appeals grants a writ of certiorari and vacates the original disposition. In such instances, the present analyses end case time at the original disposition date.

³ Iterations of this report prior to Fiscal Year 2018 involved data from case records individually extracted from the mainframe database of the Court of Special Appeals. With the Court of Special Appeals transition to the Maryland Electronic Courts (MDEC) case management system in the summer of 2018, the previous manual process is no longer necessary.

recently, or are of important public interest. In the Court of Special Appeals, the panel of judges that hears a case can recommend to the entire Court to publish an opinion. The full Court then votes on whether to report the opinion.

Overall Performance Results

Case processing performance results for Fiscal Year 2021 show that, except for certain special cases,⁴ the Court of Special Appeals generally processes cases faster than the 9-month (270 day) standard developed by the Judiciary for civil and criminal appeals. Results in this report do not currently factor suspensions into consideration.

Civil & Criminal Cases

The Court of Special Appeals surpassed the 80% goal by disposing of 91% of its combined criminal and civil appeals cases in Fiscal Year 2021 within 9 months (270 days). See Table 1.

The data suggest the Court processes cases involving unreported opinions somewhat faster than those with reported opinions. In Fiscal Year 2021, 92% of cases with unreported opinions and 85% of cases with reported opinions were disposed within standard. The Court processed a larger percentage of its civil cases with reported opinions within standard (90%) than criminal cases with reported opinions (76%). The Court's within-standard performance as to cases with unreported opinions disposed in Fiscal Year 2021 was similar for criminal (93%) and civil appeals (91%).

⁴ Special cases for purposes of this report include cases that involve deciding child access issues (guardianship, CINA, TPR); State appeals from the pretrial suppression of evidence; and elective expedited appeals. Applicable laws or Maryland Rules (*see* the Comments column on A2 of the Appendix) create special time standards for these cases, therefore analyzed separately.

Table 1. Criminal & Civil Cases Disposed within Time Standard Goals, Court of Special Appeals, Fiscal Year 2021

Judiciary Goals
Criminal & Civil Cases
Argument or Submission on Brief to Disposition
 80% within 9 Months (270 Days)

Case Type	Cases Disposed Within Time Standard Goals								
		All Cases		Cases with Reported Opinions ^c			Cases with Unreported Opinions ^c		
	Total FY 2021 Dispositions <i>N</i>	Cases Within Std. <i>N</i>	Cases Within Std. %	Total <i>N</i>	Cases Within Std. <i>N</i>	Cases Within Std. %	Total <i>N</i>	Cases Within Std. <i>N</i>	Cases Within Std. %
Criminal^a	588	538	91%	38	29	76%	550	509	93%
Civil^b	624	568	91%	78	70	90%	546	498	91%
Combined Criminal & Civil Cases	1,212	1,106	91%	116	99	85%	1096	1,007	92%

^a Criminal appeals do not include State appeals from the pretrial suppression of evidence (*n*=1). Performance results for this appeal are in Table 3.

^b 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.

^c The Court of Special Appeals will occasionally report an earlier unreported opinion. To avoid double-counting such cases, these analyses count them once, as unreported cases, based on the original disposition date.

The overall average time from argument or submission on brief to disposition for appeals disposed in Fiscal Year 2021 was 104 days for criminal and 113 days for civil appeals. Juvenile delinquency cases (a civil case subtype) showed an average case time in Fiscal Year 2021 of 115 days. Overall median times from argument or submission to disposition among the Court’s appeals disposed in Fiscal Year 2021 were lowest for civil (60 days), followed by criminal (75 days), and juvenile delinquency appeals (100 days).

Table 2. Overall Average & Median Case Processing Times, Court of Special Appeals, Fiscal Year 2021

Case Type	Time Standard	Fiscal Year 2021 Overall Average & Median Case Times (in days) ^c		
		Total Cases (N)	Overall Average	Overall Median
Criminal^a	# Days <i>Argument or Submission on Brief to Disposition</i>	588	104	75
Civil (less Juvenile Delinquency)		609	113	60
Juvenile Delinquency ^b		15	115	100
Overall (Combined)		1,212	109	67

^a Criminal appeals do not include State appeals from pretrial suppression of evidence ($n=1$). Performance results for this appeal are in Table 3.

^b 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.

^c Cases disposed the same day as argument or submission on brief are counted as one rather than zero days.

Special Cases

The Court of Special Appeals’ case time standards contain specialized timeliness provisions for certain appeal types pursuant to applicable statutes or Maryland Rules governing those appeals. Table 3 shows Fiscal Year 2021 performance results among these “special cases.”

The Court met the goal of disposing of 100% of State appeals from pretrial suppression of evidence within 120 days of filing of the record in Fiscal Year 2021 ($n=1$).

The only elective expedited appeal in Fiscal Year 2021, which was also a child access case hence subject to both sets of time standards, was processed within standard for both relevant standards.

Child access cases constitute the majority of the special cases, with 76 appeals⁵ disposed in Fiscal Year 2021. The Court’s child access cases have two case time standards, each with its performance goal: 1) argument or submission on brief within 120 days of filing the record in 98% of child access cases and 2) disposition within 60 days of argument or submission on brief in 100% of child access cases. As Table 3 shows, the Court met the goal for Standard 1 in 36.8% of the cases ($n=28$). This is an improvement over the Court’s performance on Standard 1 in

⁵ One child access case was also an elective expedited appeal, hence subject to both sets of standards.

Fiscal Year 2020 (31.6% within standard) and 2019 (13% within standard). The Court processed cases substantially faster as to Standard 2, achieving the time standard in 98.7% of the cases.

Child Access Standard 1 measures time from filing the record to argument or brief submission. During this timeframe, the Court relies on actions that one or both parties must perform. The Court may need to permit rescheduling the argument to accommodate parties' late filing of briefs, transfer of records, or change of counsel in these cases, as permitted by Rule.

Table 3. Performance of Cases Subject to Special Case Time Standard Goals, Court of Special Appeals, Fiscal Year 2021

Case Type	Case Time Start	Case Time Stop	Time Standard Goal		Fiscal Year 2020 Dispositions	Within Standard	
			Days	%		N	%
Child Access / Guardianship / CINA / TPR, Standard 1 ^a	Filing of Record	Argument Held	120 Days	98%	76 ^d	28 ^e	36.8%
Child Access / Guardianship / CINA / TPR, Standard 2 ^a	Argument or Submission on Brief	Disposition	60 Days	100%		75	98.7%
State Appeals from the Pretrial Suppression of Evidence ^b	Filing of Record	Disposition	120 Days	100%	1	1	100%
Elective Expedited Appeals, Standard 1 ^c	<u>Later of:</u> Filing of Appellee's brief or commencement of the next session of Court	Argument Held	45 Days	98%	1 ^d	1	100%
Elective Expedited Appeals, Standard 2 ^c	Argument of Submission on Brief	Decision	20 Days	98%		1	100%

^a Maryland Rule 8-207(a)(5).

^b Courts and Judicial Proceedings § 12-302(c)(3).

^c Md. Rule 8-207(b).

^d The 76 child access cases includes the single (1) elective expedited appeal, which was both a child access and elected expedited appeal hence subject to both sets of standards.

^e The number of cases within standard would be 1 higher (i.e. 29 instead of 30) if, for cases where the 120th day falls on a weekend or holiday, one were to count a record filed on the next business day as within standard. Although the time standard derives from the scheduling provisions of Rule 8-207(a)(5), and Rule 1-203 modifies the time period when the last day falls on a weekend or holiday, the time standard does not currently adjust similarly.

Analysis of Over-Standard Cases

Examination of cases considered over standard by the Court shows that a substantial number of cases missed the time standard by only a short period. In Fiscal Year 2021, 24% of the over-standard criminal appeals and 9% of the over-standard civil appeals were disposed within 1 week of the 9 month time standard, and 40% and 23%, respectively, within a month. *See* Table 4.

Similarly, the Court processed some over-standard child access cases shortly after the standard goal passed. Of the child access cases over-standard for Standard 1, 2% were disposed within 1 week of the time standard, and 6% of child access cases missed Standard 1 (filing to argument or submission) by 1 month or less. The Court disposed of the only child access case that was not within Standard 2 within 1 week of the standard.

Additionally, some cases not processed within the applicable time standard had suspension events, but the *number of days* calculation in these analyses do not deduct suspended time.

Table 4. Analysis of Over-Standard Cases Court of Special Appeals, Fiscal Year 2021

Case Type	Time Standard	Number of Over-Standard Cases	Number and Percentage of Cases Over-Standard			
			Within 1 week		Within 1 month	
			N	%	N	%
Criminal	270 Days	50	12	24%	20	40%
Civil (includes Delinquency)	270 Days	56	5	9%	13	23%
Child Access, Standard 1	120 Days (Filing of Record to Argument Held or Submission on Brief)	48	1	2%	3	6%
Child Access, Standard 2	60 Days (Argument or Submission on Brief to Disposition)	1	1	100%	1	100%

Appendix: 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 	
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 	

Special Cases

Case Type	Time Standard	Case Time Start	Case Time Suspension		Case Time Stop	Comments
			Stay Begins (Suspend Begins)	Stay Ends (Suspend Ends)		
<ul style="list-style-type: none"> Child Access/Guardianship CINA/TPR Standard 1 	<ul style="list-style-type: none"> 120 Days (98% Completed within standard) 	Filing of Record	CSA order to stay CINA appeal if circuit court in underlying CINA case proceeds with TPR	Order lifting stay	Argument held	Md. Rule 8-207(a)(5)
<ul style="list-style-type: none"> Child Access/Guardianship / CINA/TPR Standard 2 	<ul style="list-style-type: none"> 60 Days (100% Completed within standard) 	<ul style="list-style-type: none"> Argument or Submission on Brief 	None	None	<ul style="list-style-type: none"> Disposition: Opinion filed Dismissal order filed Voluntary dismissal filed 	Md. Rule 8-207(a)(5)
State Appeals from the pretrial suppression of evidence	<ul style="list-style-type: none"> 120 Days (100% Completed within standard) 	<ul style="list-style-type: none"> Filing of Record 	None	None	<ul style="list-style-type: none"> Disposition: Opinion filed Dismissal order filed Voluntary dismissal by State 	CJ § 12-302(c)(3)
Elective Expedited Appeals Standard 1	<ul style="list-style-type: none"> 45 Days (98% Completed within standard) 	<ul style="list-style-type: none"> Later of filing of Appellee's brief or commencement of the next session of Court 	None	None	<ul style="list-style-type: none"> Argument held 	Md. Rule 8-207(b)
Elective Expedited Appeals Standard 2	<ul style="list-style-type: none"> 20 days (or 30 days if submitted on brief) (98% Completed within standard) 	<ul style="list-style-type: none"> 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 circumstances Conclusion of the next scheduled conference 	<ul style="list-style-type: none"> Decision: Opinion filed Dismissal order filed Voluntary dismissal by appellant 	Md. Rule 8-207(b)

^a Must be a joint election executed by all parties. Md. Rule 8-207(b).