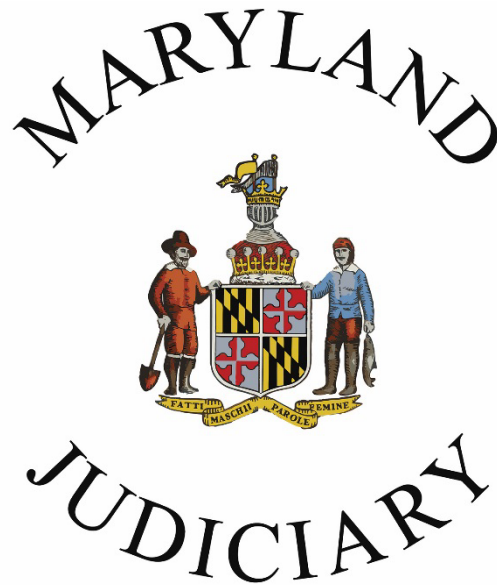


Analysis of Case Processing Performance in the Appellate Court of Maryland*

Fiscal Year 2023



Administrative Office of the Courts

November 2023

*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022, during the reporting period.

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Introduction

The Appellate Court of Maryland 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. Case time standards are central to the Maryland Judiciary's mission to provide fair, efficient, and effective justice for all.

At the November 16, 2022, meeting of the Judicial Council, the Chief Justice approved the Council's recommended changes to the Appellate Court of Maryland's case time standards. The previous standards called for the Court to dispose of 80% of appeals within 9 months (270 days) of argument or submission of the case on the briefs. The revised standards specify that the Court should dispose of 90% of appeals within 9 months (270 days) and 100% within 1 year of argument or submission of the case on the briefs. The Chief Justice approved an additional recommendation to include in the analysis cases disposed of early, prior to argument or submission, counting them as disposed in 1 day, rather than excluding them from analysis of case processing performance, to fully reflect the work of the court and properly acknowledge efforts to resolve appeals timely.

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 Supreme Court of Maryland,¹ or a different court.

[See Appendix](#) for the complete table of case time standards for the Appellate Court of Maryland.

This report contains performance results towards the Court's case time standards during Fiscal Year 2023 (July 1, 2022, through June 30, 2023).

Methodology

The present analyses of case processing performance in the Appellate Court of Maryland focus on appeals disposed by the Court in Fiscal Year 2023 (July 1, 2022, through June 30, 2023). Case time ends, for present purposes, at the original appellate disposition date.²

Data in the present analyses are extracted from the Maryland Electronic Courts (MDEC) case management system through custom reports.³ A final data quality review involved comparing data retrieved from MDEC to data from the Clerk of the Appellate Court of Maryland.

¹ At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022, during the reporting period.

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

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 recently, or are of important public interest. In the Appellate Court of Maryland, 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 2023 show that the Appellate Court of Maryland generally processes cases faster than the 9-month (270 day) standard developed by the Judiciary for civil and criminal appeals but did not achieve 100% within 1 year for Fiscal Year 2023. Results in this report do not currently factor suspensions into consideration.

Civil & Criminal Cases

The Appellate Court of Maryland surpassed the 90% goal by disposing of 95% of its combined criminal and civil appeals cases in Fiscal Year 2023 within 9 months (270 days). The Court disposed of 98% of appeals within 1 year.⁴ See [Table 1](#).

The data suggest that the Court processes cases involving unreported opinions slightly faster than those with reported opinions. In Fiscal Year 2023, 96% of appeals with unreported opinions and 92% with reported opinions were disposed within 9 months, and 98% and 97% within 1 year, respectively. The Court processed larger shares of its criminal cases within 9 months (97%) and 1 year (more than 99.5%) than its civil cases (94% and 97%), respectively.

⁴ The Chief Justice adopted the recommended changes to the case time standards at the November 16, 2022, meeting of the Judicial Council. Of the 19 appeals over the 1-year standard, 10 (52.6%) were disposed of on or before November 16, 2022.

| Appellate Court of Maryland | | | | | |
|--|-----------------------|---------------------------------|----------|-------------------------------|----------|
| Table 1. Criminal & Civil Appeals Disposed within Time Standard Goals, Fiscal Year 2023 | | | | | |
| Judiciary Goals: Argument or Submission on Brief to Disposition | | | | | |
| 90% within 9 Months (270 Days) | | | | | |
| 100% within 1 year (365 Days) | | | | | |
| All Appeals | | | | | |
| Appeal Type | Total Disposed | Disposed within 9 months | | Disposed within 1 year | |
| | | <i>N</i> | % | <i>N</i> | % |
| Criminal | 419 | 408 | 97.4% | 417 | 99.5% |
| Civil | 566 | 532 | 94.0% | 549 | 97.0% |
| Combined Criminal & Civil | 985 | 940 | 95.4% | 966 | 98.1% |
| Appeals with Reported Opinions | | | | | |
| Appeal Type | Total Disposed | Disposed within 9 months | | Disposed within 1 year | |
| | | <i>N</i> | % | <i>N</i> | % |
| Criminal | 29 | 26 | 89.7% | 29 | 100.0% |
| Civil | 33 | 31 | 93.9% | 31 | 93.9% |
| Combined Criminal & Civil | 62 | 57 | 91.9% | 60 | 96.8% |
| Appeals with Unreported Opinions | | | | | |
| Appeal Type | Total Disposed | Disposed within 9 months | | Disposed within 1 year | |
| | | <i>N</i> | % | <i>N</i> | % |
| Criminal | 390 | 382 | 97.9% | 388 | 99.5% |
| Civil | 533 | 501 | 94.0% | 518 | 97.2% |
| Combined Criminal & Civil | 923 | 883 | 95.7% | 906 | 98.2% |
| Notes: | | | | | |
| Criminal appeals do not include State appeals from the pretrial suppression of evidence (<i>n</i> =1). Performance results for this appeal are in Table 3. | | | | | |
| Civil appeals include regular civil appeals, juvenile delinquency appeals, and child access and guardianship appeals. Child access and guardianship appeals are subject to additional time standards, as shown in Table 3, as well as the general civil appeals time standard. | | | | | |
| The Appellate Court of Maryland will occasionally report an earlier unreported opinion. To avoid double counting such appeals, these analyses count them once, as unreported appeals, based on the original disposition date. | | | | | |

The overall average time from argument or submission on brief to disposition for appeals disposed in Fiscal Year 2023 was 61 days for criminal and 85 days for civil appeals (excluding juvenile delinquency). Juvenile delinquency cases (a civil case subtype) showed an average case time in Fiscal Year 2023 of 38 days. Overall median times from argument or submission to disposition among the Court’s appeals disposed in Fiscal Year 2023 were lowest for criminal appeals (33 days), followed by juvenile delinquency (38 days), and civil appeals (45 days). See [Table 2](#).

| Appellate Court of Maryland | | | | |
|--|---|-----------------|--|----------------|
| Table 2. Overall Average & Median Case Processing Times, Fiscal Year 2023 | | | | |
| Appeals Type | Time Standard | Total Cases (N) | Fiscal Year 2023 Overall Average & Median Case Times (in days) | |
| | | | Overall Average | Overall Median |
| Criminal | # Days Argument or Submission on Brief to Disposition | 419 | 61.1 | 33 |
| Civil (less Juvenile Delinquency) | | 515 | 84.7 | 45 |
| Juvenile Delinquency | | 51 | 38.2 | 38 |
| Overall (Combined) | | 985 | 72.2 | 37 |
| <p>Notes:</p> <p>Criminal appeals do not include State appeals from the pretrial suppression of evidence ($n=1$). Performance results for this appeal are in Table 3.</p> <p>Juvenile Delinquency appeals are contained within the “Civil” appeal type in terms of the Appellate Court of Maryland’s official Time Standards, but are analyzed separately in Table 2 to show comparative average and median case times only.</p> <p>Appeals disposed the same day as argument or submission on brief, or earlier, are counted as one day. Prior to Fiscal Year 2023 such appeals were excluded from analysis.</p> | | | | |

Special Cases

The Appellate Court’s 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 2023 performance results among these “special cases.”

Child access cases constitute the majority of the special cases, with 118 appeals disposed in Fiscal Year 2023. 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’s performance declined slightly for Standard 1, from 63% in Fiscal Year 2022 to 59% of the cases ($n=70$) within standard in Fiscal Year 2023, but still well above the 36.8% within standard in Fiscal Year 2021, 31.6% in 2020, and 13% in 2019. As in previous years, the Court processed cases substantially faster as to Standard 2, achieving the time standard in 98% of the cases, a small decrease from the 99% in Fiscal Year 2022.

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.

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 2022 ($n=1$). There was no elective expedited appeals in Fiscal Year 2022.

| Appellate Court of Maryland | | | | | | | |
|---|---|---------------|--------------------|------|--------------------|-----------------|--------|
| Table 3. Performance of Appeals Subject to Special Time Standard Goals, Fiscal Year 2023 | | | | | | | |
| Case Type | Case Time | | Time Standard Goal | | Total Dispositions | Within Standard | |
| | Start | Stop | Days | % | | N | % |
| Child Access / Guardianship / CINA / TPR, Standard 1 ^a | Filing of Record | Argument Held | 120 Days | 98% | 118 | 70 | 59.3% |
| Child Access / Guardianship / CINA / TPR, Standard 2 ^a | Argument or Submission on Brief | Disposition | 60 Days | 100% | | 116 | 98.3% |
| State Appeals from the Pretrial Suppression of Evidence ^b | Filing of Record | Disposition | 120 Days | 100% | 1 | 1 | 100.0% |
| Elective Expedited Appeals, Standard 1 ^c | Later of: Filing of Appellee’s brief or commencement of the next session of Court | Argument Held | 45 Days | 98% | 0 | - | - |
| Elective Expedited Appeals, Standard 2 ^c | Argument of Submission on Brief | Decision | 20 Days | 98% | | - | - |
| Notes: ^a Maryland Rule 8-207(a)(5). ^b Courts and Judicial Proceedings § 12-302(c)(3). ^c Maryland Rule 8-207(b). | | | | | | | |

Analysis of Over-Standard Cases

Examination of cases considered over standard by the Court shows that a substantial number of cases missed the time standards by only a short period. In Fiscal Year 2023, the Court disposed of 18% of the appeals requiring more than 270 days within 1 week of that standard, with 64% of criminal appeals and 35% of civil appeals within 1 month of that standard. Of the two criminals not disposed within the second (one year) time standard, the court disposed of one within one week and the other within one month of the standard. The Court disposed of smaller shares of the civil appeals over Standard 2 within one week (6%) and one month (18%) of the standard.

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 (filing to argument or submission), 10% were disposed of within one week of the time standard, and 31% of child access cases missed Standard 1 by one month or less. The Court disposed of one of the two child access case that was not within Standard 2 within one week of the standard and the other within one month.

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.

| Appellate Court of Maryland | | | | | | | |
|--|---|---------------------|-------|--|-------|----------------|-------|
| Table 4. Analysis of Over-Standard Appeals, Fiscal Year 2023 | | | | | | | |
| Case Type | Time Standard | Over-Standard Cases | | Number and Percentages of Cases Over-Standard Disposed | | | |
| | | N | % | Within 1 week | | Within 1 month | |
| | | | | N | % | N | % |
| Criminal | 270 Days (90%) | 11 | 2.6% | 2 | 18.2% | 7 | 63.6% |
| | 365 Days (100%) | 2 | 0.5% | 1 | 50.0% | 1 | 50.0% |
| Civil (includes Delinquency) | 270 Days (90%) | 34 | 6.0% | 6 | 17.6% | 12 | 35.3% |
| | 365 Days (100%) | 17 | 3.0% | 1 | 5.9% | 3 | 17.6% |
| Child Access, Standard 1 | 120 Days (Filing of Record to Argument Held or Submission on Brief) | 48 | 40.7% | 5 | 10.4% | 15 | 31.3% |
| Child Access, Standard 2 | 60 Days (Argument or Submission on Brief to Disposition) | 2 | 1.7% | 1 | 50.0% | 1 | 50.0% |
| State Appeal | 120 Days (Filing of Record to Disposition) | 0 | 0.0% | - | - | - | - |

Appendix: Appellate Court of Maryland 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 (90% Completed within standard) 1 Year (100% 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 Supreme Court 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 Supreme Court 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 Supreme Court | |
| Criminal | 9 Months (90% Completed within standard) 1 Year (100% 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 Supreme Court 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 Supreme Court 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 Supreme Court | |

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 ^a 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).