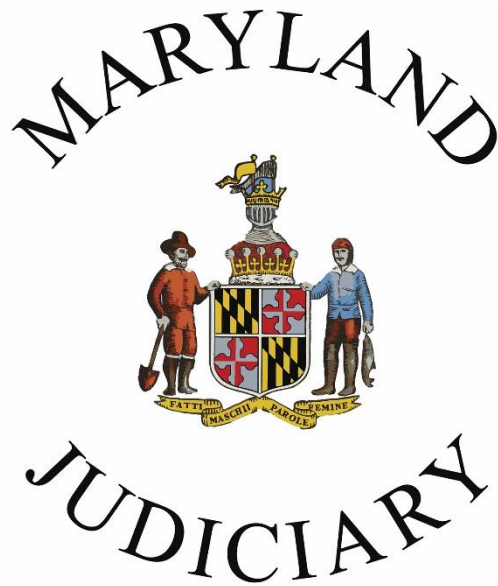


Analysis of Case Processing Performance in the Court of Special Appeals

Fiscal Year 2017



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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), and State appeals from the pretrial suppression of evidence are handled according to applicable laws 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 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 2017 (July 1, 2016 through June 30, 2017). The original date of disposition was used to stop the case time.¹

All data required to measure case processing time for cases disposed in Fiscal Year 2017 were individually extracted from the Court of Special Appeals' mainframe database in August and September 2017, 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.

Performance results in this analysis are provided by case type, as well as for "reported" versus "unreported" opinions. Generally, appellate courts issue a reported opinion 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 who hear a case can recommend to the entire Court the publication of an opinion. The full Court then votes on whether to issue a reported or unreported opinion.

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.

Overall Performance Results

Performance results for Fiscal Year 2017 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 87% of its combined criminal and civil appeals cases within the 9-month (270 day) goal in Fiscal Year 2017, exceeding the established 80% goal. Further analysis shows that the Court disposed of a roughly equivalent percentage of civil cases and criminal cases within the standard (at 87% for civil and 88% for criminal), in Fiscal Year 2017. See Table 1.

The data were further analyzed to determine if a difference existed in how the Court processed reported versus unreported opinions. In Fiscal Year 2017, the Court disposed of more cases with unreported opinions within the standard than they did cases with reported opinions (at 88% within-standard among unreported opinions compared to 86% within-standard for reported opinions). It was found that 93% of the Court's reported criminal opinions were processed within-standard, as well as 83% of reported civil opinions. The Court's cases with unreported opinions disposed in Fiscal Year 2017 performed at a similar level, with 88% of criminal appeals with unreported opinions and 87% of civil appeals with unreported opinions 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 2017

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

Case Type	Cases Disposed Within Time Standard Goals								
	Fiscal Year 2016 Dispositions	All Cases		Reported Opinions			Unreported Opinions		
	N	Cases Within-Standard <i>N</i>	% Within-Standard	Total <i>N</i>	Cases Within-Standard <i>N</i>	% Within-Standard	Total <i>N</i>	Cases Within-Standard <i>N</i>	% WST
Criminal¹	642	566	88%	40	37	93%	602	529	88%
Civil²	688	597	87%	63	52	83%	625	545	87%
Combined Criminal & Civil Cases	1,330	1,163	87%	103	89	86%	1,227	1,074	88%

¹ Criminal appeals do not include State appeals from the pretrial suppression of evidence (n=12). Performance results for these appeals are provided in Table 3.

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.

³ The Court of Special Appeals disposed of 5 cases prior to the set argument date. These cases were not included in this analysis.

As seen in Table 2, the overall average time from argument to disposition for disposed appeals in Fiscal Year 2017 was 113 days for criminal and 115 days for civil appeals. Juvenile delinquency cases (a civil case sub-type) showed an average case time in Fiscal Year 2017 of 70 days. Overall median times from argument to disposition among the Court’s disposed appeals in Fiscal Year 2017 were lowest in juvenile delinquency (50 days) and civil cases (55 days); criminal cases were slightly higher at 69 days.

Table 2. Overall Average & Median Case Processing Times, Court of Special Appeals, Fiscal Year 2017

Case Type	Time Standard	Total Cases (N)	Fiscal Year 2017 Overall Average & Median Case Times (in days)	
			Overall Average	Overall Median
Criminal ¹	270 Days <i>Argument/Submission on Brief to Disposition</i>	642	113	69
Civil (less Juvenile Delinquency)		648	115	55
Juvenile Delinquency ²		40	70	50
Overall (Combined)		1,330	112	60

¹Criminal appeals do not include State appeals from the pretrial suppression of evidence (n=12). Performance results for these appeals are provided in Table 3.

² 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 2017 performance results among these “special cases” are shown in Table 3.

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 2017. Child access cases comprise the majority of the special cases, with 114 appeals disposed in Fiscal Year 2017. 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 20% of the cases (n =

23). The Court processed cases significantly faster on Standard 2, in which the time standard was attained in 96% of the cases ($n = 109$), falling just short of the 100% goal.

Child Access Standard 1 measures time from filing to argument/submission. During this timeframe, the Court must rely on the actions of one or both parties to perform. Casefile notes indicate that argument was frequently rescheduled to permit late filing of briefs, transfer of records, or change in counsel in these cases. Many of these delays were not initiated by the Court, but were permitted by Court Order.

The analysis indicated that the Court performed equal to or better than the standard in the vast majority of cases (including criminal and civil) 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 4%.

Table 3. Performance of Cases subject to Special Case Time Standard Goals, Court of Special Appeals, Fiscal Year 2017

Case Type	Case Time Start	Case Time Stop	Time Standard Goal		Fiscal Year 2017 Dispositions	Within-Standard	
			Days	%		N	%
Child Access / Guardianship / CINA / TPR, Standard 1 ¹	Filing of Record	Argument Held	120 Days	98%	114	23	20%
Child Access / Guardianship / CINA / TPR, Standard 2 ²	Argument or Submission on Brief	Disposition	60 Days	100%		109	96%
State Appeals from the Pretrial Suppression of Evidence ³	Filing of Record	Disposition	120 Days	100%	12	12	100%
Elective Expedited Appeals, Standard 1 ⁴	<u>Later of:</u> Filing of Appellee's brief <u>or</u> commencement of the next session of Court	Argument Held	45 Days	98%	1	1	100%
Elective Expedited Appeals, Standard 2 ⁵	Argument of Submission on Brief	Decision	20 Days	98%		0	0%

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).

Analysis of Over-Standard Cases

An examination of over-standard cases by the Court shows that a number of cases did not meet the time standard goal by only a short period. In Fiscal Year 2017, 22% of the over-standard cases for criminal appeals and 20% of the over-standard cases for civil appeals were disposed within one month of the 270 day time standard. See Table 4.

Similarly, an analysis of child access cases showed that a significant number of over-standard cases were disposed shortly after the standard goal passed. All five of the over standard cases for Standard 2 were disposed within a month after the time standard period lapsed. Forty-three percent (43%) of Child Access cases missed Standard 1 (filing to argument/submission) by one month or less.

**Table 4. Analysis of Over-Standard Cases
Court of Special Appeals, Fiscal Year 2017**

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	76	2	3%	17	22%
Civil (includes Delinquency)	270 Days	91	3	3%	18	20%
Child Access, Standard 1	120 Days (Filing of Record to Argument Held)	91	17	19%	39	43%
Child Access, Standard 2	60 Days (Argument/Submission on Brief to Disposition)	5	3	60%	5	100%

APPENDIX: 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. 	
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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • Opinion filed. • Dismissal order filed. • Voluntary dismissal by State. 	CJP § 12-302(c)(3).
Elective³ 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).
Elective Expedited Appeals Standard 2.	20 days (or 30 days if submitted on brief) (98% Completed within standard)	Argument or Submission on Brief	➤ Identification of extraordinary circumstances ➤ Panel of Court recommends reporting the opinion.	➤ 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).

³ The election must be a joint election executed by all parties. Md. Rule 8-207(b).