

Maryland Judiciary

Fiscal Year 2018

Analysis of Case Processing Performance in the Court of Special Appeals



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 nine 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), termination of parental rights (TPR) elective expedited appeals, and State appeals from the pretrial suppression of evidence.

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.

Methodology

The present analyses of case processing performance in the Court of Special Appeals concern all appeals disposed by the Court in Fiscal Year 2018 (July 1, 2017 through June 30, 2018). Case time ends, for present purposes, at the original appellate disposition date.¹

Previous iterations of this report involved data individually extracted from the Court of Special Appeals' mainframe database. 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. All data used in the present analyses are as recorded in MDEC. Prior to this analysis, 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 a reported opinion in cases that establish new law, clarify or qualify settled law (based on unusual facts or circumstances), restate a principle of law not discussed recently, or that are cases 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.

Results in this report do not currently factor suspensions into consideration.

¹ 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.

Overall Performance Results

Case processing performance results for Fiscal Year 2018 show that, except for certain special cases,² the Court of Special Appeals generally processes cases faster than the nine-month (270 day) standard developed by the Judiciary for civil and criminal cases.

Civil & Criminal Cases

The Court of Special Appeals surpassed the 80% goal by disposing of 90% of its combined criminal and civil appeals cases in Fiscal Year 2018 within nine months (270 days). In Fiscal Year 2018, the Court disposed of roughly equivalent percentages of civil and criminal cases within the standard (89% for civil and 90% for criminal). See Table 1.

The data suggests that the Court processes cases involving reported opinions similarly to those without reported opinions. In Fiscal Year 2018, there was a slightly larger percentage of cases disposed within standard for cases with reported opinions (91%) than for cases with unreported opinions (89%). The Court processed a larger percentage of its criminal cases with reported opinions within standard (94%) than civil cases with reported opinions (89%). The Court's within-standard performance as to cases with unreported opinions disposed in Fiscal Year 2018 was similar, with 90% of criminal appeals with unreported opinions and 89% of civil appeals with unreported opinions.

² 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 2018

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

Case Type	Cases Disposed Within Time Standard Goals								
		All Cases		Cases with Reported Opinions			Cases with Unreported Opinions		
	Total FY 2018 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	603	544	90%	49	46	94%	554	498	90%
Civil^b	646	575	89%	84	75	89%	562	500	89%
Combined Criminal & Civil Cases	1249 ^c	1119	90%	133	121	91%	1116	998	89%

^a Criminal appeals do not include State appeals from the pretrial suppression of evidence ($n=6$). Performance results for these appeals 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 disposed of two cases prior to the argument date or submission on brief. These cases were not included in this analysis.

The overall average time from argument or submission on brief to disposition for appeals disposed in Fiscal Year 2018 was 107 days for criminal and 102 days for civil appeals. Juvenile delinquency cases (a civil case subtype) showed an average case time in Fiscal Year 2018 of 91 days. Overall median times from argument or submission to disposition among the Court’s appeals disposed in Fiscal Year 2018 were nearly equivalent for civil and juvenile delinquency cases (56 and 57 days, respectively). Criminal cases were somewhat higher at 65 days.

Table 2. Overall Average & Median Case Processing Times, Court of Special Appeals, Fiscal Year 2018

Case Type	Time Standard	Fiscal Year 2018 Overall Average & Median Case Times (in days)		
		Total Cases (N)	Overall Average	Overall Median
Criminal^a	# Days <i>Argument or Submission on Brief to Disposition</i>	603	107	65
Civil (less Juvenile Delinquency)		620	102	56
Juvenile Delinquency ^b		26	91	57
Overall (Combined)		1249	104	59

^a Criminal appeals do not include State appeals from pretrial suppression of evidence ($n=6$). Performance results for these appeals 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.

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 governing these appeals. Table 3 shows Fiscal Year 2018 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 2018 ($n=6$).

There were no elective expedited appeals in Fiscal Year 2018.

Child access cases comprise the majority of the special cases, with 90 appeals disposed in Fiscal Year 2018. The Court’s child access cases have two case time standards, each with its performance goal: argument or submission on brief within 120 days of filing in 98% of child access cases and 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 20% of the cases ($n=18$),³ but processed cases substantially faster as to Standard 2, achieving the time standard in 99% of the cases ($n = 89$).

Child Access Standard 1 measures time from filing to argument or brief submission. During this timeframe, the Court must rely on the actions of one or both parties to 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.

These analyses indicate that the Court missed the goal for Child Access Standard 2 by 1%.

Table 3. Performance of Cases Subject to Special Case Time Standard Goals, Court of Special Appeals, Fiscal Year 2018

Case Type	Case Time Start	Case Time Stop	Time Standard Goal		Fiscal Year 2018 Dispositions	Within Standard	
			Days	%		N	%
Child Access / Guardianship / CINA / TPR, Standard 1^a	Filing of Record	Argument Held	120 Days	98%	90	18	20%
Child Access / Guardianship / CINA / TPR, Standard 2^a	Argument or Submission on Brief	Disposition	60 Days	100%		89	99%
State Appeals from the Pretrial Suppression of Evidence^b	Filing of Record	Disposition	120 Days	100%	6	6	100%
Elective Expedited Appeals, Standard 1^c	<u>Later of:</u> Filing of Appellee's brief <u>or</u> 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%		-	-

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

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

^c Md. Rule 8-207(b)

³ Although the standard itself does not explicitly address stays, Md. Rule 8-207, which governs child access cases and is the basis for the standard, expressly states that the 120-day time limit is subject to order of the Court. In all instances of cases exceeding 120 days to argument or submission on brief in Fiscal Year 2018 the Court issued such an order.

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 2018, 15% of the over-standard cases for criminal appeals and 21% of the over-standard cases for civil appeals were disposed within one month of the nine-month time standard. *See* Table 4.

Similarly, the Court disposed of many over-standard child access cases shortly after the standard goal passed. The only over-standard case for Standard 2 was disposed within one week of the time standard, and 36% of child access cases missed Standard 1 (filing to argument or submission) by one month or less.

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

**Table 4. Analysis of Over-Standard Cases
Court of Special Appeals, Fiscal Year 2018**

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	59	1	2%	9	15%
Civil (includes Delinquency)	270 Days	71	1	1%	15	21%
Child Access, Standard 1	120 Days (Filing of Record to Argument Held or Submission on Brief)	72	7	10%	26	36%
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

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 in response to 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 in response to 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)
Elective^a 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	<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)

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