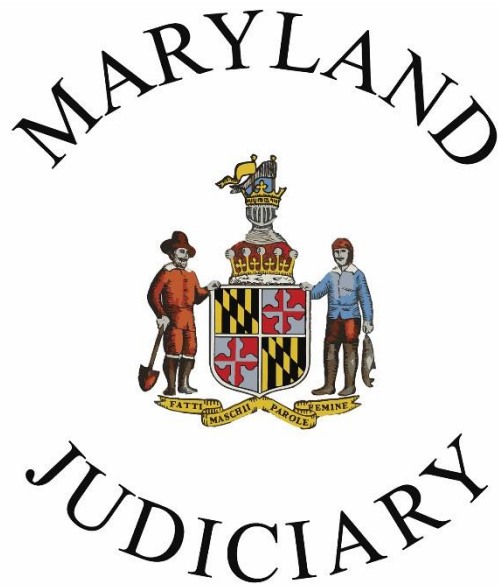


Analysis of Case Processing Performance in the Court of Special Appeals

Fiscal Year 2019



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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 brief. 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. In Fiscal Year 2019, the Judiciary added a new suspension in appeals of CINA cases when the circuit court in the underlying action proceeds with terminating parental rights, which could effectively moot the appeal.

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 focus on appeals disposed by the Court in Fiscal Year 2019 (July 1, 2018 through June 30, 2019). Case time ends, for present purposes, at the original appellate disposition date.¹

Iterations of this report prior to Fiscal Year 2018 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. Data in the present analyses are as recorded in MDEC. 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 either establish new law, clarify or qualify settled law (based on unusual facts or circumstances), restate a principle of law not discussed recently, or 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.

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 2019 show that, except for certain special cases,² 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 85% of its combined criminal and civil appeals cases in Fiscal Year 2019 within 9 months (270 days). In Fiscal Year 2019, the Court disposed of a slightly higher percentage of cases within the standard for criminal cases (88%) than civil (84%). See Table 1.

The data suggest the Court processes cases involving reported opinions similarly to those without reported opinions. In Fiscal Year 2019, 86% of cases with unreported opinions and 83% of cases with reported opinions were disposed within standard. The Court processed a larger percentage of its criminal cases with reported opinions within standard (85%) than civil cases with reported opinions (82%). The Court's within-standard performance as to cases with unreported opinions disposed in Fiscal Year 2019 was similar, with 88% of criminal appeals with unreported opinions and 84% 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 2019

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 ^d			Cases with Unreported Opinions ^d		
	Total FY 2019 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	497	435	88%	40	34	85%	457	401	88%
Civil^b	577	482	84%	65	53	82%	512	429	84%
Combined Criminal & Civil Cases	1,074^c	917	85%	105	87	83%	969	830	86%

^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 disposed of 5 cases prior to the argument date or submission on brief. These cases were not included in these analyses.

^d 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 2019 was 97 days for criminal and 131 days for civil appeals. Juvenile delinquency cases (a civil case subtype) showed an average case time in Fiscal Year 2019 of 101 days. Overall median times from argument or submission to disposition among the Court’s appeals disposed in Fiscal Year 2019 were nearly equivalent for criminal and juvenile delinquency cases (42 and 41 days, respectively). Civil cases were somewhat higher at 52 days.

Table 2. Overall Average & Median Case Processing Times, Court of Special Appeals, Fiscal Year 2019

Case Type	Time Standard	Fiscal Year 2019 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>	497	97	42
Civil (less Juvenile Delinquency)		568	131	52
Juvenile Delinquency ^b		9	101	41
Overall (Combined)		1,074	115	49

^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 timeline provisions for certain appeal types pursuant to applicable laws or Maryland Rules governing these appeals. Table 3 shows Fiscal Year 2019 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 2019 ($n=1$).

The only elective expedited appeal in Fiscal Year 2019 was voluntarily dismissed before the Court issued a decision and is therefore not included in this report’s analyses.

Child access cases constitute the majority of the special cases, with 69 appeals disposed in Fiscal Year 2019. 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 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 13% of the cases ($n=9$), but processed cases substantially faster as to Standard 2, achieving the time standard in 99% of the cases ($n=68$).

Child Access Standard 1 measures time from filing 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.

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 2019

Case Type	Case Time Start	Case Time Stop	Time Standard Goal		Fiscal Year 2019 Dispositions	Within Standard	
			Days	%		N	%
Child Access / Guardianship / CINA / TPR, Standard 1^a	Filing of Record	Argument Held	120 Days	98%	69	9	13%
Child Access / Guardianship / CINA / TPR, Standard 2^a	Argument or Submission on Brief	Disposition	60 Days	100%		68	99%
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 <u>or</u> commencement of the next session of Court	Argument Held	45 Days	98%	0 ^d	-	-
Elective Expedited Appeals, Standard 2^c	Argument of Submission on Brief	Decision	20 Days	98%		-	-

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

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

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

^d Because the only elective expedited appeal was voluntarily dismissed, not disposed by the Court, it is not included in these analyses.

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 2019, 3% of the over-standard cases for criminal appeals and 8% of the over-standard cases for civil appeals were disposed within 1 week of the 9 month time standard, and an additional 6% and 8%, respectively, more than a week but within a month. *See* Table 4.

Similarly, the Court disposed of several over-standard child access cases shortly after the standard goal passed. The only over-standard case for Standard 2 was disposed within 1 week of the time standard, and 20% of child access cases missed Standard 1 (filing to argument or submission) by 1 month or less.

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 2019**

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	62	2	3%	4	6%
Civil (includes Delinquency)	270 Days	95	8	8%	8	8%
Child Access, Standard 1	120 Days (Filing of Record to Argument Held or Submission on Brief)	60	7	12%	5	8%
Child Access, Standard 2	60 Days (Argument or Submission on Brief to Disposition)	1	1	100%	0	0%

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	➤ 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)
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. 	CJ § 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	➤ 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)

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