

FIFTH CIRCUIT UPDATE

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CLERK OF COURT

Appellate Advocacy Seminar
Bar Association of the Fifth Federal Circuit
October 7, 2024

5TH CIRCUIT'S NINE DISTRICTS (28 USC §41)

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3 Louisiana Districts:

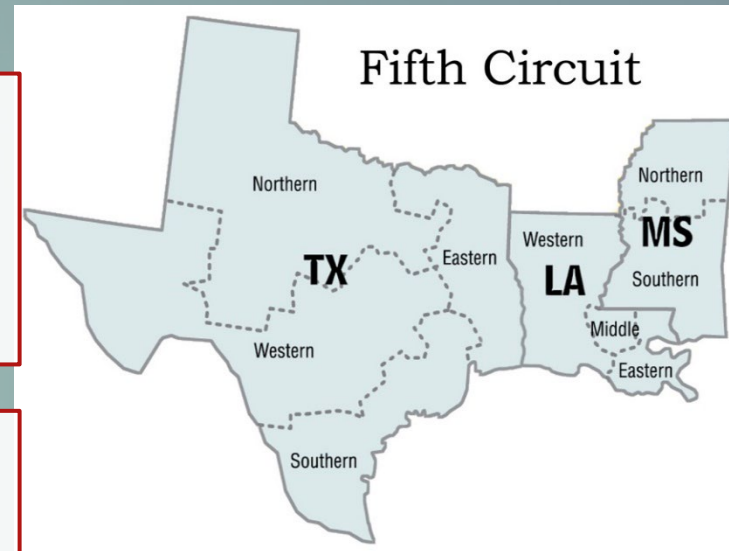
- Eastern District, New Orleans
 - Chief Judge Nannette Jolivet Brown - Clerk Carol L. Michel
- Middle District, Baton Rouge
 - Chief Judge Shelly D. Dick - Clerk Mike L. McConnell
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 - Chief Judge Terry A. Doughty - Clerk Daniel J. McCoy

2 Mississippi Districts:

- Northern District, Oxford
 - Chief Judge Debra M. Brown - Clerk David Crews
- Southern District, Jackson
 - Chief Judge Daniel P. Jordan, III - Clerk Arthur Johnston, III

4 Texas Districts:

- Eastern District, Beaumont
 - Chief Judge Rodney Gilstrap - Clerk David O'Toole
- Northern District, Dallas
 - Chief Judge David C. Godbey - Clerk Karen Mitchell
- Southern District, Houston
 - Chief Judge Randy Crane - Clerk Nathan Ochsner
- Western District, San Antonio
 - Chief Judge Alia Moses - Clerk Philip Devlin



Court sits in New Orleans and Fort Worth and elsewhere as required (28 USC §48)

5TH CIRCUIT JUDGES

▶ 28 USC §44 authorizes 17 Judges. We have 17 Active and 8 Senior* Judges, with chambers in the locations noted.

- ▶ Houston: Chief Judge Elrod and Judges King*, Jones, and Smith
- ▶ Austin: Judge Richman and Judges Willett, Oldham and Higginbotham*
- ▶ Dallas: Judges Haynes, Ho, and Ramirez
- ▶ Jackson: Judges Jolly*, Barksdale*, Southwick, Graves, and Wilson
- ▶ Shreveport: Judge Stewart
- ▶ New Orleans: Judges Davis*, Wiener*, Dennis*, Clement*, Higginson, Engelhardt and Douglas
- ▶ Baton Rouge: Judge Duncan

ITEMS OF INTEREST

In January, the court proposed a local rule to address use of AI in pleadings. In May, the court withdrew the proposed rule but reminded parties and counsel they were responsible for accuracy of filings. Court stated: “I used AI” will not be an excuse for an otherwise sanctionable offense.”

In January 2024, the court revised the IOP following 5th Cir. R. 41 to direct the clerk to docket a public entry when a mandate is held or released. The docket entry does not disclose the name of the judge (or judges). The grant of en banc review automatically vacates the panel opinion and hold.

ITEMS OF INTEREST



Effective December 1, 2024, FRAP 35 consolidated under a new FRAP 40 that addresses petitions for both panel and en banc rehearing. New FRAP 40 permits local courts to continue to require separate petitions.



The court will soon amend local rules to conform to the FRAP changes. The court will continue to require separate panel and en banc petitions.



On October 4, 2024, the court proposed a local rule requiring parties to notify court telephonically when non-emergency filings require immediate action. Comment period ends October 25, 2024.

SPECIAL ITEMS OF INTEREST

The court does not require paper copies of briefs and record excerpts unless directed by the clerk.

Normally required only when case is placed on the Oral Argument Calendar.

Paper copies of Petitions for Panel and En Banc review are required.

ACCESS TO CASE INFORMATION, ARGUMENTS, AND OPINIONS

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Public can receive notice of case activity and access documents through PACER.

There is limited seating in courtrooms, but we live stream audio of all oral arguments from our website. A recent argument streamed to over 1600 IP addresses.

We post OA recordings on both the Court Website and our [YouTube](#) channel shortly after the hearing ends. We hope to live stream audio on YouTube in the future.

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UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Honorable Priscilla Richman, Chief Judge

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FAQ · RS

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En Banc Court

The following case is set for en banc oral argument at a time to be determined at a later date.

[Little v. Llano Cnty., 23-50224](#)

Public Access to Oral Arguments

Links to upcoming hearings are contained in the document listed below. Live audio links are active only during arguments and are paused between cases or during any technical issues. For those unable to listen live, we continue to post audio recordings after the proceeding, on the oral argument recordings page: [Oral Argument Recordings](#).

[Aug 5 - 8 Oral Argument Links](#)

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For The Fifth Circuit
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Clerk of Court: Lyle W

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LIVE STREAMS

BY DAY

BY CASE

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Court and Special Hearing Calendars

Live Streams for Today

Number ↑	Style	Nature	Time	Venue
23-10735	USA v. Tammy Walden Thomas, Appellant.	Listen Criminal (DCRIM)	9:00 AM	West Courtroom
23-20354	USA v. Sha Kendrick Smith, Appellant.	Listen Criminal (DCRIM)	9:00 AM	En Banc Courtroom
23-20448	Petrobras America, Appellant-Appellee v. Samsung Heavy Industries Company.	Listen RICO (Fed Q)	9:00 AM	En Banc Courtroom
23-30424	Michael Holmes v. Corbett Reddoch, Et Al., Appellants.	Listen Other Civil Rights	9:00 AM	East Courtroom
23-30444	USA v. Terrell Moore, Appellant.	Listen Criminal (DCRIM)	9:00 AM	West Courtroom
23-50720	Rainbow Energy Marketing Corporation, Appellant v. DC Transco.	Listen Other Contract Actions (Dvsty)	1:00 PM	En Banc Courtroom
23-50928	Crystal Clear Special Utility District v. HK Baugh Ranch, Appellant.	Listen Agricultural Acts (Fed Q)	9:00 AM	West Courtroom
24-10084	Elio Cerkezi, Et Al., Appellants v. City of Arlington, Et Al.	Listen Other Civil Rights	9:00 AM	En Banc Courtroom
24-20007	Banco Mercantil De Norte, S.A., Et Al. v. Juan Jose Paramo, Appellant.	Listen Other Statutory Actions (FedQ)	9:00 AM	East Courtroom
24-40248	M.D., Et Al. v. Greg Abbott, Et Al., Appellants.	Listen Other Civil Rights	4:30 PM	En Banc Courtroom

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Court and Special Hearing Calendars

Pending Hearings by Case

Number ↑	Style	Date	Nature	Time	Venue
19-70022	Rodney Reed, Appellant v. Bryan Goertz, Et Al. (30 MINUTES PER SIDE)	9/23/2024	Habeas Corpus - Death Penalty	10:30 AM	West Courtroom
23-10661	Michael Ray Senn, Appellant v. Bobby Lumpkin.	9/3/2024	Habeas Corpus	1:00 PM	East Courtroom
23-10735	USA v. Tammy Walden Thomas, Appellant.	8/5/2024	Criminal (DCRIM)	9:00 AM	West Courtroom
23-10773	J.T., Appellant v. Uplift Education.	9/5/2024	Civil Rights	9:00 AM	West Courtroom
23-10904	Munck Wilson Mandala, Appellant v. Mark Jordan, Et Al.	8/6/2024	RICO (Fed Q)	9:00 AM	En Banc Courtroom
23-10911	Highland Capital Management, L.P. v. NexPoint Asset Management, L.P., Et Al., Appellants.	8/6/2024	Bankruptcy	9:00 AM	East Courtroom
23-11023	Steve Biggers, Appellant v. Ron Massingill.	9/5/2024	Other Civil Rights	9:00 AM	East Courtroom
23-11065	Southwest Airlines Pilots Association, Appellant v. Southwest Airlines Company.	8/6/2024	Railway Labor Act (Fed Q)	9:00 AM	East Courtroom
23-11084	Nathaniel King, Appellant v. DFW International Airport Board.	8/8/2024	Americans w/Disab Act-Emp	9:00 AM	East Courtroom
23-11120	Placid Oil, Appellant v. Avalon Farms.	9/5/2024	Bankruptcy	9:00 AM	En Banc Courtroom
23-11132	USA v. Ruel M. Hamilton, Appellant.	8/7/2024	Criminal (NCRIM)	9:00 AM	East Courtroom
23-11208	Suzann Ruff, Appellant v. Destination Development Partners, Et Al.	9/4/2024	Bankruptcy	9:00 AM	East Courtroom
23-11247	Fonda Wicks, Appellant v. Metropolitan Life Insurance Company.	8/6/2024	Employee Retirement (Fed Q)	9:00 AM	West Courtroom
23-20140	Scott Sullivan, Et Al. v. Stewart Feldman, Et Al., Appellants. (30 MINUTES PER SIDE)	8/7/2024	Recovery/Enforcement (Dvsty)	9:00 AM	En Banc Courtroom
23-20188	Michel Keck, Appellant-Appellee; Mathew Kidman Higbee, Et Al. v. Mix Creative Learning Center, Et Al.	8/6/2024	Copyright (Fed Q)	9:00 AM	En Banc Courtroom
23-20354	USA v. Sha Kendrick Smith, Appellant.	8/5/2024	Criminal (DCRIM)	9:00 AM	En Banc Courtroom
23-20435	Feanyichi E. Uvukansi, Appellant v. Bobby Lumpkin.	9/3/2024	Habeas Corpus	1:00 PM	West Courtroom
23-20448	Petrobras America, Appellant-Appellee v. Samsung Heavy Industries Company.	8/5/2024	RICO (Fed Q)	9:00 AM	En Banc Courtroom
23-20502	Kimaletha Wynn, Et Al., Appellants; Vincent Leday, Et Al., Appellants v. Harris County, Texas, Et Al.	8/7/2024	Other Civil Rights	9:00 AM	West Courtroom
23-20513	USA v. Arturo Garza, Jr., Appellant.	9/4/2024	Criminal (DCRIM)	9:00 AM	East Courtroom
23-20516	Great Lakes Dredge & Dock Company, Appellant v. Chris Magnus, Et Al.; American Petroleum Institute.	9/3/2024	Other Statutes	1:00 PM	East Courtroom
23-20533	Zyla Life Sciences, Appellant-Appellee v. Wells Pharma of Houston.	9/5/2024	Other personal prop dam(Dvsty)	9:00 AM	East Courtroom



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<p><i>DISABILITY RIGHTS TEXAS V. HOLLIS</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>JEFFERY T. NORRIS BRANT LEVINE COURTNEY LUTHER 43:04</p> <p>23-20171 Disability Rights Texas v. Hollis, March 4, 2024 U.S. Court of Appeals for the Fift...</p>	<p><i>MIECO, L.L.C. V. PIONEER</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>CREDITON MAG. CHRISTOPHER R.J. T. 43:04</p> <p>23-10575 Mieco, L.L.C. v. Pioneer, March 4, 2024 U.S. Court of Appeals for the Fift...</p>	<p><i>AMER PEARL GRP V. NATL PAYMENT SYS</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>KENNETH J. CATANE PETER N. KESSLE 37:21</p> <p>23-10804 Amer Pearl Grp v. Natl Payment Sys, March 4,... U.S. Court of Appeals for the Fift...</p>	<p><i>LEWIS V. CROCHET</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>BRANDON KELLY BE LARRY ENGLISH 39:44</p> <p>23-30386 Lewis v. Crochet, March 4, 2024 U.S. Court of Appeals for the Fift...</p>	<p><i>MARSH V. CHAS KURZ</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AN ENGELHARDT</p> <p>MEREDITH KAY CL JOSEPH EDWARD LEL 40:40</p> <p>23-30460 Marsh v. Chas Kurz, March 4, 2024 U.S. Court of Appeals for the Fift...</p>
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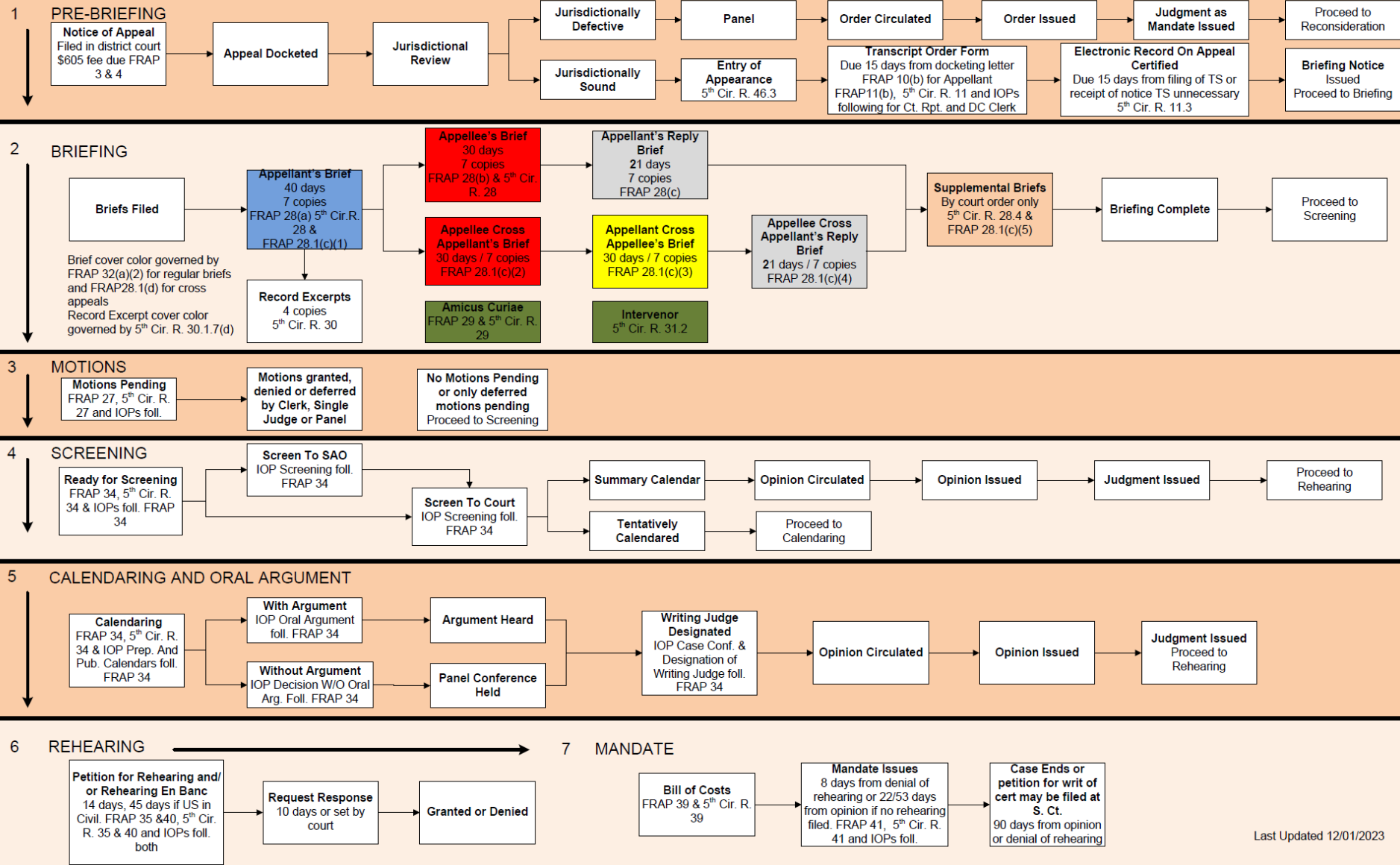
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THE LIFE OF AN APPEAL IN THE FIFTH CIRCUIT COURT OF APPEALS*

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Last Updated 12/01/2023

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<u>CASE MANAGER</u> Christina Gardner (CAG) 310-7684	<u>CASE ADMINISTRATOR TEAM LEADER</u> Angelique Tardie (ABT) 310-7715	<u>CASE MANAGER</u> Shea Pertuit VanVoorhis (SEP) 310-7666
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DEATH PENALTY 70000 Monica Washington (MRW) 310-7705 1 st Backup: Mary Frances Yeager (MFY) 310-7686 2 nd Backup: Casey Sullivan (CAS) 310-7642		
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United States Court of Appeals for the Fifth Circuit



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Pending Deadlines/Filings

Case ▾	Title	Item Due ⇅	Party Type/Name	Date Due ⇅	File Event
24-50086	USA v. Matthew Artega	A/Pet's Brief Due	Appellant Matthew Taylor Artega	04/22/2024	Appellant/Petitioner Brief Filed Anders Brief Filed Rule 28i letter filed adopting brief

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24-40045	USA v. Guajardo	Original	May 22, 2024, 4:16:51 PM
24-40072	USA v. Etheridge	Original	Apr 1, 2024, 3:57:49 PM
24-40072	USA v. Etheridge	Supplemental #1	May 1, 2024, 3:37:36 PM
24-40097	USA v. Hernandez-Prado	Original	Apr 1, 2024, 9:38:55 AM
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24-40131	USA v. Esquivel-Florian	Original	Jul 10, 2024, 2:25:28 PM
24-40149	USA v. Trevino-Lerma	Original	Jun 12, 2024, 4:57:24 PM
24-40173	USA v. Stanfield	Original	Jun 10, 2024, 12:43:31 PM
24-40176	USA v. Maldonado	Original	Jun 3, 2024, 9:31:35 AM
24-40200	USA v. Ramirez	Original	Jun 14, 2024, 4:23:50 PM
24-40236	USA v. Alaniz	Original	Jun 24, 2024, 11:16:36 AM
24-40253	USA v. Rebolledo-Sanchez	Original	Jun 17, 2024, 11:16:48 AM
24-40279	USA v. Gonzalez	Original	Jun 19, 2024, 1:00:33 PM
24-40369	USA v. Reyes	Original	Aug 30, 2024, 4:15:15 PM

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SOUTHERN DISTRICT OF TEXAS (McAllen)
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Case title: USA v. Luna-Soto
Magistrate judge case number: 7:22-mj-01796
Date Filed: 10/05/2022
Date Terminated: 01/17/2024

Assigned to: Judge Micaela Alvarez

Defendant (1)
Pedro Sergio Luna-Soto
TERMINATED: 01/17/2024

represented by **Juan Jose Becerra**
Federal Public Defender
1701 W Hwy 83
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956-630-2995
Fax: 956-631-8647
Email: Juan_J_Becerra@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
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Defender Appointment*

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
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24-40032.1

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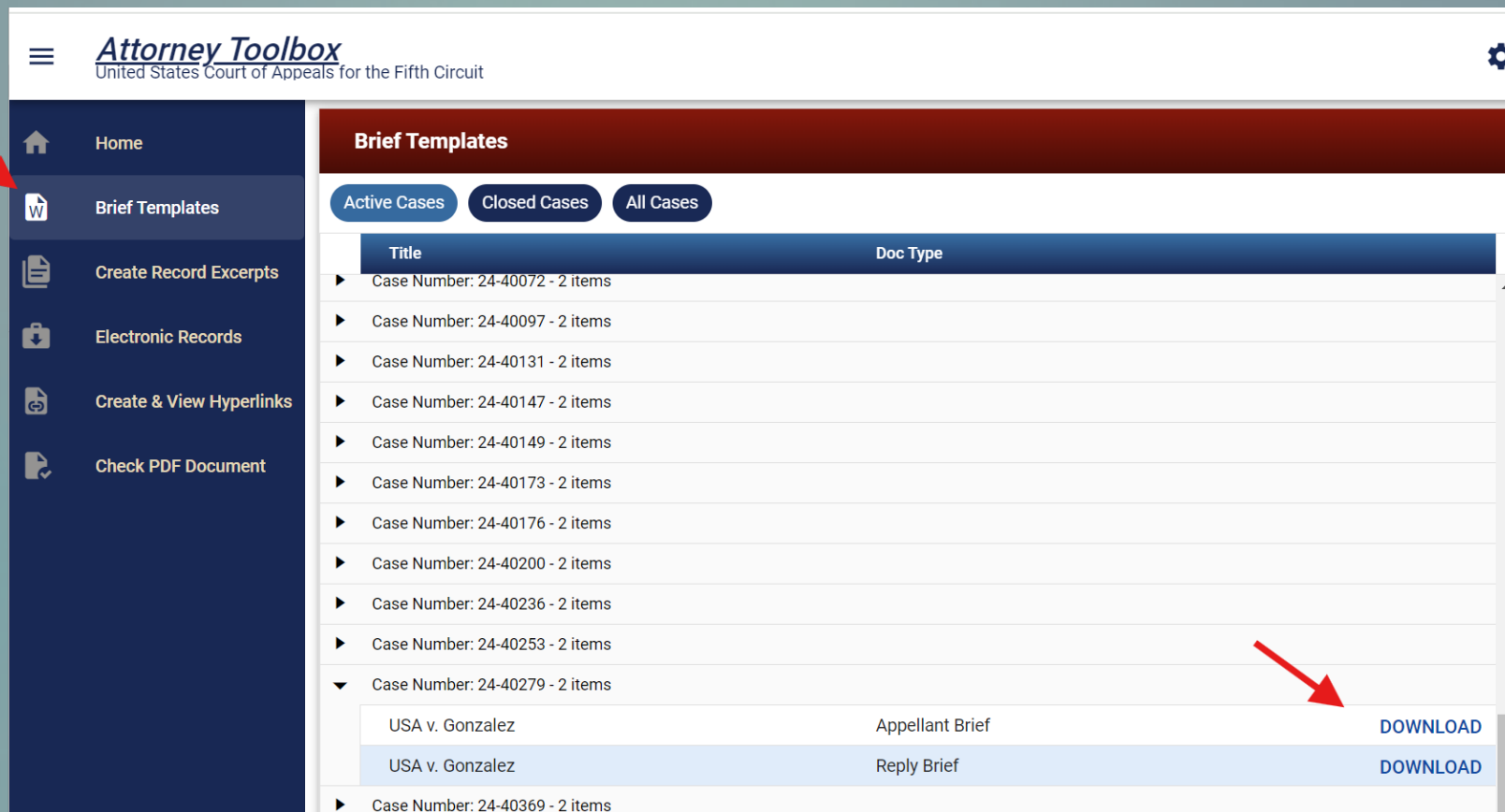
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▶ Case Number: 24-40176 - 2 items		
▶ Case Number: 24-40200 - 2 items		
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USA v. Gonzalez	Appellant Brief	DOWNLOAD
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No. 24-40279

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States of America,

Plaintiff - Appellee

v.

Sixto Gonzalez,

Defendant - Appellant

On
United States District Court
5:2

BRIEF OF APPEAL

JURISDICTIONAL STATEMENT

Type here a Jurisdictional Statement as required by FED. R. APP. P. 28(a)(4)(A) through (D)

STATEMENT OF THE ISSUES

Type here a Statement of Issues presented for review as required by FED. R. APP. P. 28(a)(5).

STATEMENT OF THE CASE

Type here a Statement of the Case as required by FED. R. APP. P. 28(a)(6).

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of 5th CIR Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Appellees:	Counsel for Appellees:
United States of America	Carmen Mitchell of U.S. Attorney's Office Houston, TX

Appellants:	Counsel for Appellants:
Sixto Gonzalez	Marjorie Meyers of Federal Public Defender's Office Houston, TX
Sixto Gonzalez	Scott Martin of Federal Public Defender's Office Houston, TX
Sixto Gonzalez	Evan Howze of Federal Public Defender's Office Houston, TX

Other Interested Parties:	Counsel for Interested Parties:
Type Here	Type Here

S/Scott Andrew Martin
Attorney of record for Type Here

A Certificate of Interested Persons is required by 5th CIR. R. 28.2.1.

iii

STATEMENT OF THE ARGUMENT

Type here a Statement of the Argument as required by FED. R. APP. P. 28(a)(7).

CONCLUSION

2

CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of FED. R. APP. P. 32(a)(7)(B) because, excluding the parts of the document exempted by FED. R. APP. P. 32(f) and 5th CIR. R. 32.1: this document contains [state the number of] words.

2. This document complies with the typeface requirements of FED. R. APP. P. 32(a)(5), and 5th CIR. R. 32.1 and the type-style requirements of FED. R. APP. P. 32(a)(6) because:

this document has been prepared in a proportionally spaced typeface using [state name and version of word-processing program] in [state font size and name of type style].

S/Scott Andrew Martin

A certificate of compliance is required by FED. R. APP. P. 32(g)(1), and 5th CIR. R. 32.3, and FED. R. APP. P. 28(a)(10).

5

CREATE RECORD EXCERPTS REQUIRED BY LOCAL RULE 30

24

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

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Record Excerpts Due

Enter appellate case number [SEARCH](#) [RESET](#)

Case Number	Title		Due Date
24-40369	USA v. Reyes	CREATE	Oct 9, 2024
24-20243	USA v. Wasson	CREATE	Nov 4, 2024
24-20262	USA v. Barrios	CREATE	Nov 4, 2024
24-40437	USA v. Hahn	CREATE	Nov 12, 2024
24-20314	USA v. Tyler	CREATE	Nov 12, 2024
24-20348	USA v. Long	CREATE	Nov 12, 2024

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2. ADD OPTIONAL CONTENT

3. FINALIZE AND DOWNLOAD

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

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Create Record Excerpts
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Check PDF Document

Create Record Excerpts for 24-40369

DISPLAY INSTRUCTIONS

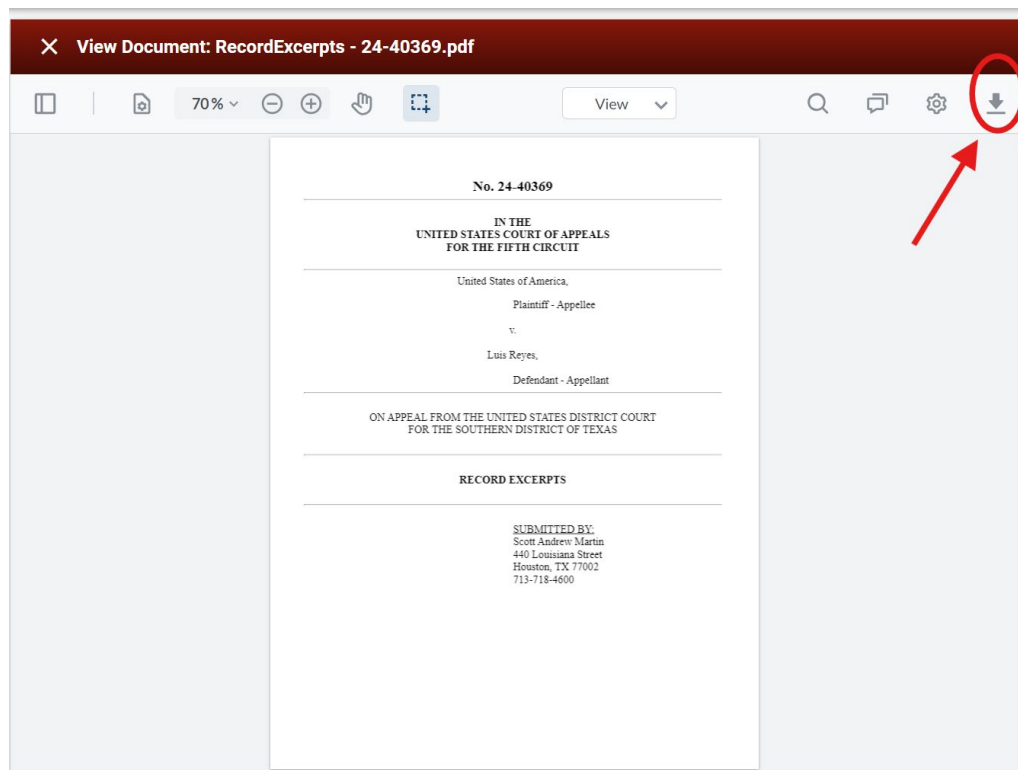
1 Verify Required Documents 2 Select Optional Documents 3 Finalize and Download

Document	Doc.	Pages	Selected	Action
Category: Docket Sheet - 2 items				
DOCKET SHEET - 2:20-CR-890-1	-	233 - 244	<input checked="" type="checkbox"/>	REMOVE
DOCKET SHEET - 2:20-CR-890-1	-	1 - 10	<input checked="" type="checkbox"/>	REMOVE
Category: Indictment - 1 item				
INDICTMENT	1	245	<input checked="" type="checkbox"/>	REMOVE
Category: Judgment/Order/Opinion - 17 items				
PROPOSED ORDER	3	13	<input checked="" type="checkbox"/>	REMOVE
PROPOSED ORDER	4	16	<input type="checkbox"/>	ADD
ORDER ON MOTION FOR ISSUANCE OF	5	17	<input type="checkbox"/>	ADD
ORDER ON MOTION TO SEAL	6	18	<input type="checkbox"/>	ADD
ORDER ON MOTION TO UNSEAL CASE	9	21	<input type="checkbox"/>	ADD
ORDER APPOINTING PUBLIC DEFENDE	10	22	<input type="checkbox"/>	ADD
BRADY ORDER	11	23	<input type="checkbox"/>	ADD
SCHEDULING ORDER/WAIVER	13	24 - 27	<input type="checkbox"/>	ADD

PREVIOUS NEXT

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AS NECESSARY

WHEN
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No. 24-40369

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States of America,

Plaintiff - Appellee

v.

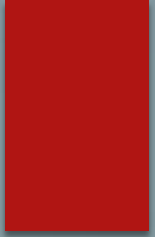
Luis Reyes,

Defendant - Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

RECORD EXCERPTS

SUBMITTED BY:
Scott Andrew Martin
440 Louisiana Street
Houston, TX 77002
713-718-4600

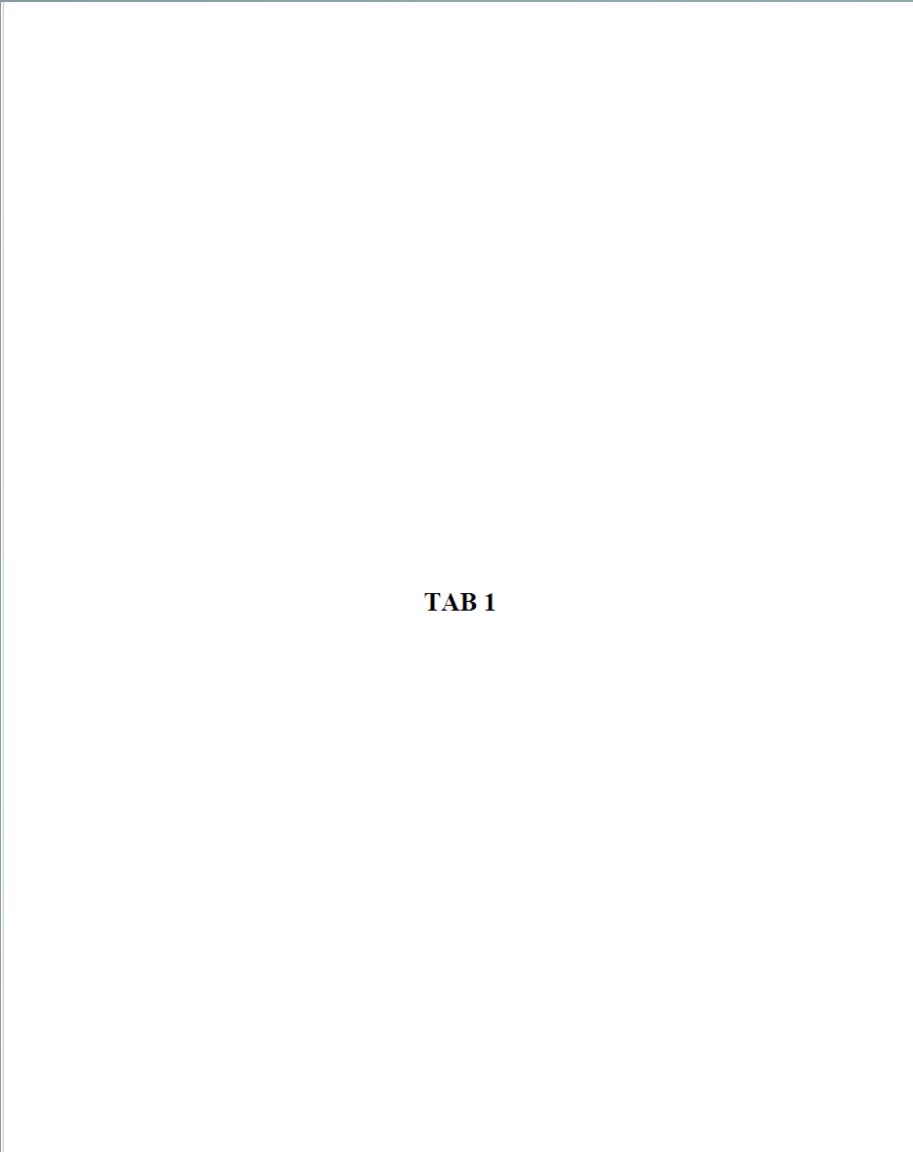
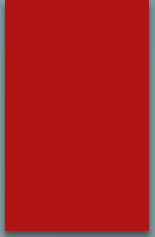


THE PROGRAM
COMBINES YOUR
SELECTIONS WITH
INFORMATION IN
CM/ECF TO CREATE A
PDF FILE THAT
COMPLIES WITH LOCAL
RULES.

Table of Contents

Document	Record Citation	Tab
Docket Sheet - 2:20-CR-890-1	ROA.233-244	Tab 1
Docket Sheet - 2:20-CR-890-1	ROA.1-10	Tab 2
Notice of Appeal - Judgment and Sentence	ROA.103-104	Tab 3
Clerk's Notice of Filing of an Appeal	ROA.105	Tab 4
notice of appeal	ROA.106-107	Tab 5
Indictment	ROA.245	Tab 6
Proposed Order	ROA.13	Tab 7

PDF EXCERPTS
INCLUDE ALL
REQUIRED
SECTIONS, SUCH AS
THE TABLE OF
CONTENTS



TAB 1

DOWNLOADED EXCERPTS
INCLUDE BLANK PAGES FOR
TABS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

v.

LUIS REYES

§
§
§
§
§
§

CRIMINAL NO. C-20-0890

NOTICE OF APPEAL

On this 20th day of May 2024, notice is hereby given that defendant, LUIS REYES, hereby appeals from the judgment of conviction and sentence imposed on May 16, 2024, to the Fifth Circuit Court of Appeals.

Respectfully submitted,

MARJORIE A. MEYERS
Federal Public Defender
Southern District of Texas No. 3233
Texas State Bar No. 14003750

By: /s/Elizabeth A. O'Connell
ELIZABETH A. O'CONNELL
Assistant Federal Public Defender
Texas State Bar No. 24065834
Southern District of Texas No. 226193
606 N. Carancahua, Ste. 401
Corpus Christ, Texas 78401
Telephone: (361) 888-3532



24-40369.106

CONTENTS SELECTED
INCLUDE THE PROPER OFFICIAL
EROA PAGINATION

Certificate of Service

I certify that on October 2, 2024, the foregoing document was served, via the Court's CM/ECF Document Filing System, upon all counsel of record.

S/Scott Andrew Martin

Scott Andrew Martin

PDF EXCERPTS
INCLUDE THE
CERTIFICATE OF
SERVICE DATE YOU
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CHECK PDF DOCUMENT (QUALITY CONTROL (QC) SCAN FOR ISSUES

32

You can use the Toolbox to check your draft brief for compliance with FRAP and Local Rules. The program scans all filed briefs at filings, regardless.

In both instances, the program generates a pop-up message that shows errors, categorized as either "Critical" or "Minor." We do not reject a pleading for Minor errors.

You can always file the brief without corrections. But if the brief has critical errors, our office will likely later reject the brief.

A deputy clerk, not a computer, decides whether a brief should be rejected.

QC CHECK OF BRIEF BEFORE FILING

The screenshot displays the 'Attorney Toolbox' interface for the United States Court of Appeals for the Fifth Circuit. A dark blue sidebar on the left contains navigation options: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. A red arrow points to the 'Check PDF Document' option. The main content area has a dark red header with the text 'Upload PDF to Check for Compliance With Rules'. Below this, a section titled 'Select the document type to test for compliance with rules.' features five buttons: Amicus Brief, Anders Brief, Appellants Brief (highlighted in blue), Appellees Brief, and Reply Brief. Red arrows point from the 'Appellants Brief' button to the 'Enter the case number' input field and to the 'RESET' button. The input field contains the text 'Enter appellate case number' and the value '24-40369'. Below this, a section titled 'Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned "Or drop files here."' contains a 'BROWSE...' button and the text 'Or drop files here'. A red arrow points to the 'BROWSE...' button.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Upload PDF to Check for Compliance With Rules

Select the document type to test for compliance with rules.

Amicus Brief Anders Brief **Appellants Brief** Appellees Brief Reply Brief

Enter the case number for testing or leave blank for the system to automatically retrieve it from the document.

Enter appellate case number
24-40369 RESET

Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned "Or drop files here."

BROWSE... Or drop files here

IF THE PROGRAM FINDS A POSSIBLE DEFICIENCY, IT PROVIDES A MESSAGE THAT EXPLAINS THE CONCERN AND HYPERLINKS TO THE MATTER.

× Deficiency Check Results

A computer program determined this brief may not meet FRAP and local rule requirements. The program found critical deficiencies (issues that impact the court's internal review or processes and almost always require re-filing and the filing of a corrected pleading). The program also found possible minor deficiencies that will not be present for your consideration.

1. Critical deficiencies found that normally result in rejected brief:

- The **Appeal Number** on the title page is incorrect. The correct case number is: 24-20020. ([Show Details](#))
- Record references inspection: the system has performed a detailed inspection of your record on appeal and produced the following list of citations that may be inaccurate. The record citations must be in the correct form or the brief will be rejected.
 - PDF Page: 11 contains an invalid citation: roa-89.
 - is not a valid character to use directly after the ROA in the citation. Instead use ROA. to begin a citation on appeal. ([Show Details](#))

2. Minor deficiencies we call to your attention:

- PDF page number 17 does not meet the requirement of left margins of at least one inch. ([Show Details](#))

You are not required to make any corrections before docketing this brief. After it is filed, a deputy clerk will review the brief and require rejection. Successfully correcting critical deficiencies now will avoid later rejection of the brief.

Three-day extension. If you are filing on the deadline and need additional time to make corrections, we will provide an automatic extension of three working days, unless your case has a special briefing requirement. To determine if an extension is available in your case, click on the 'File Extension' button displayed at the bottom of the screen and docket your brief. If an automatic extension is not available, you will be returned to docketing.

Note: The program sometimes mistakenly reports a deficiency when none exists, such as when it does not match for required contents or sections, or when graphics, text or characters confuse the search engine. Please contact us about this program by letting us know if the program incorrectly identifies a deficiency in your brief by emailing Margaret_Dufour@ca5.uscourts.gov.

CLICKING ON
“SHOW
DETAILS”
HYPERLINK IN
MESSAGE LINKS
TO ERROR

HERE, THE
CORRECT
NUMBER IS
24-20020

No. 24-20021

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

GERARDO RAMIREZ-ALVARADO,
Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas

BRIEF FOR APPELLANT

“SHOW
DETAILS” ROA
ERROR REVEALS
INCORRECT CITE
FORMAT

PROPER FORMAT
IS ROA.89

The screenshot shows the Attorney Toolbox interface for the United States Court of Appeals for the Fifth Circuit. The left sidebar contains navigation options: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. The main content area displays a document titled "View Document: pdf9579467288601948573345565953" at 160% zoom. The document text includes a citation error: "ROA.19-20" instead of "ROA.89". The text reads: "convicted of a felony offense," in violation of [8 U.S.C. § 1326\(a\)](#) and [\(b\)](#). [ROA.19-20](#). On October 20, 2023, Mr. Ramirez-Alvarado pled guilty to the indictment without a plea agreement. [ROA.68-94](#). At the guilty plea proceeding, the prosecutor offered the following to establish a factual basis for the plea. Mr. Ramirez-Alvarado is a citizen and national of Mexico and not the United States. [ROA.88](#). He has prior felony convictions, including two prior convictions for Texas burglary of a habitation offenses. [ROA.88](#). He has four prior deportations, which occurred on January 7, 1998; April 16, 2004; December 14, 2011; and August 22, 2019. [ROA.88-89](#). He was found in Houston, Texas, on March 12, 2023. [ROA-89](#). A record search of the central index system of his A-File revealed no evidence he obtained consent from the Attorney General or the Secretary of the

“SHOW
DETAILS”
HYPERLINK
DISPLAYS
OFFENDING
MARGIN

Mr. Ramirez-Alvarado timely filed a notice of ap
(judgment entered January 22, 2024).

ABOUT OUR QC RESULTS ...

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At filing, we offer a three-day automatic extension to encourage corrections. (Note: This is not available for expedited appeals.)

We regularly contact attorneys who had trouble filing documents and ask for feedback on how to improve the engine and process.

CREATE AND VIEW HYPERLINKS IN PLEADINGS

Select “Create and View Hyperlinks” from the Toolbox left menu.

Select your preferred search engine for legal authority hyperlinks. Westlaw, Lexis, and several free engines are supported.

“Drag and drop” a PDF copy of a brief (your own draft brief or the PDF copy of the opponent’s brief from PACER) into the Toolbox.

The program used to create these hyperlinks is the same one used in the court and used by judges and court staff.

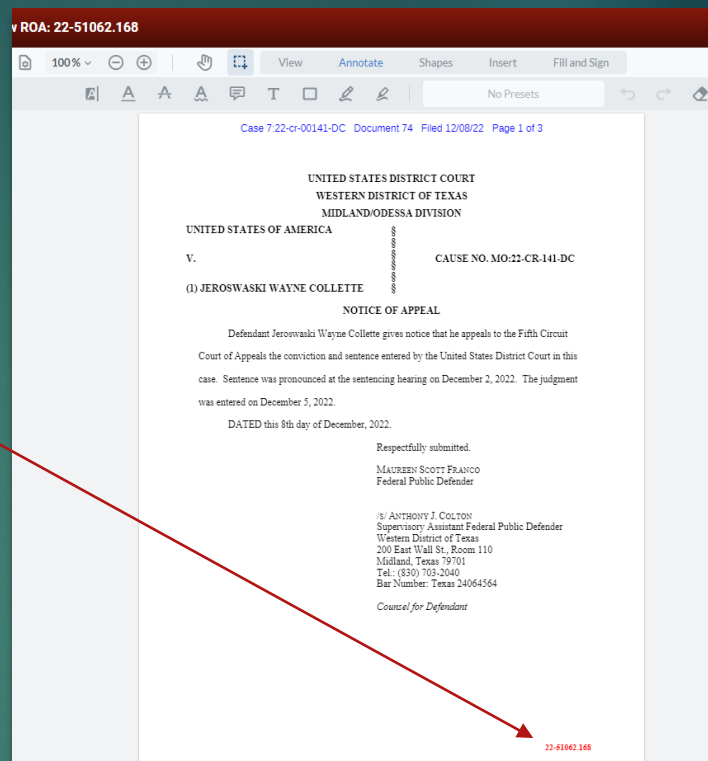
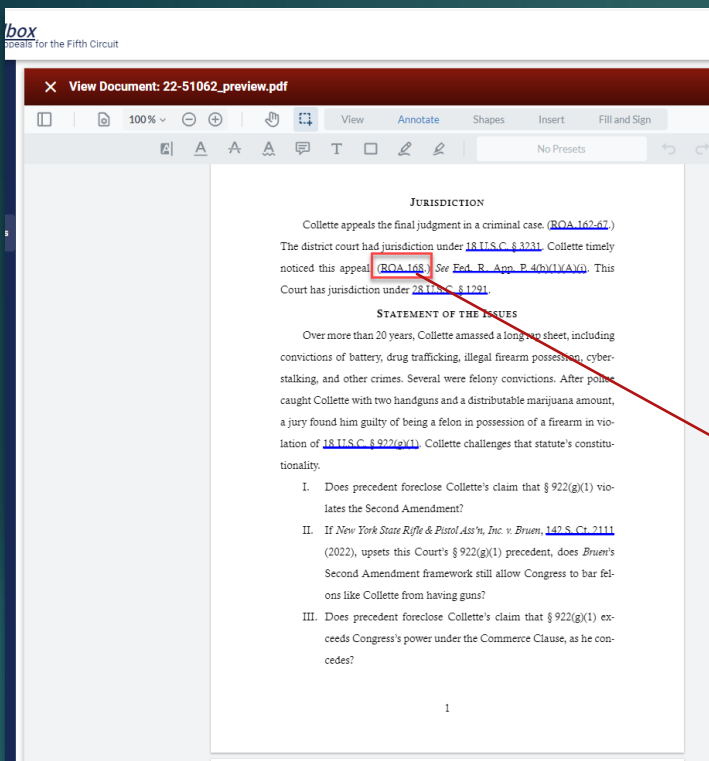
SELECT A SEARCH ENGINE, THEN “DRAG AND DROP” A PDF COPY OF A PLEADING INTO THE TOOLBOX.

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The screenshot displays the Attorney Toolbox interface for the United States Court of Appeals for the Fifth Circuit. The main heading is "Upload PDF to Check ROA Citations". Below this, a red banner instructs users to "Select your desired search engine. Please note that for Westlaw and Lexis you must have an account, the system does not authenticate for you." Search engine options include Westlaw Next, Lexis, Google Scholar, Bing, Yahoo, and None (which is selected). A "BROWSE..." button is present next to the text "Or drop files here".

An inset image shows a Windows File Explorer window open to the Downloads folder. A red arrow points from the "22-51062.pdf" file in the Explorer to a PDF icon on the website, illustrating the drag-and-drop action.

Name	Date modified	Type	Size
22-51062.pdf	2/22/2024 1:48 PM	Adobe Acr...	147 KB



PROGRAM INSTANTLY CREATES
HYPERLINKS.
CLICKING ON AN ROA HYPERLINK
DISPLAYS THAT PAGE OF THE
RECORD

SOME CONSIDERATIONS

An attorney can view the links while logged in to CM/ECF or save the document for later viewing.

ROA hyperlinks only work while an attorney is logged in to CM/ECF, because the links point to a copy of the EROA on our internal server.

Hyperlinks to legal authority work even when if the attorney is not logged into CM/ECF.

If an attorney selects a paid subscription legal research engine (either Westlaw or Lexis) then the attorney will be prompted to log-in to that service to access the hyperlinks.

We are willing to support legal research engines provided by state bar associations if sufficient interest is expressed.

**BEST
PRACTICES:
HOW CAN
YOU USE
HYPERLINKS?**

1) Verify your EROA Cites: Drag your draft into the program before filing to ensure your EROA cites point to the pages you intended to cite.

2) Review opponent's brief: Drag the PDF of your opponent's brief into the program and quickly review their ROA and legal citations.

3) Prepare for Oral Argument: Use program to easily review citations in briefs.

PRACTICE TIPS: COMMON MISTAKES TO AVOID

Not verifying active status in court bar or not filing an appearance form until a brief is due.

Not listing lead counsel on the appearance form.

Not using the EXACT caption.

Not filing a Transcript Order Form (Required to be filed in both District Court and our court even if transcripts are not needed).

Filing a brief with **NO** EROA cites (they are required); including incorrect cites; or not following Local Rule 28.2.2 format (ROA.123).

Waiting until the due date to ask for extension, not providing adequate justification, and not indicating whether the opposing counsel was consulted.

Failing to justify an extension of more than 30 days. Local rule 31.4.3 requires "more than ordinary good cause ... demonstrate diligence and substantial need and must show IN DETAIL what special circumstances exist...."

Asking for extension on reply briefs or rehearing petitions. Rule 31.4.4 greatly disfavors all extensions for filing reply briefs and Rule 35.4 says extensions for rehearing are only for "the most compelling reasons."

PRACTICE TIPS:

OTHER ERRORS YOU CAN AVOID

Using the wrong event or relief (select from the searchable list on court ECF Page).

Refiling a document incorrectly filed, resulting in two filings. Please call us first.

Not properly filing sealed matters. Use the Event "ECF Motion and/or Document Filed Under Temporary Seal."

Omitting Certificates of Compliance on motions, responses, replies, and rehearings.

Violating 5th Cir. R. 27.3 regarding emergency motions. (Must be filed before 2:00 p.m. and requires certification that the facts supporting emergency consideration of the motion are true and complete.)

Attaching record excerpts to the brief filed event. These must be docketed separately.

Not informing us who would argue and whether time was reserved for rebuttal.

ONE MISTAKE WILL COST YOU MONEY NOT TELLING US WHEN YOU CHANGE ADDRESS!

FINAL NOTICE: 5TH CIRCUIT BAR MEMBERSHIP RENEWAL DUE



CA05db_BarRenewals

Fri 4/19/2024 3:06 PM

You are receiving this notice because your membership is expiring. The fee to renew is \$50.00. Please be advised that failure to renew by the end of this month will invalidate your membership and require you to reapply for admission to the bar. The fee for readmission is \$249.00. If you are an attorney with a US Government agency, you are still required to renew your membership, however, you are exempt from the \$50.00 renewal fee.

Please visit us at <http://www.ca5.uscourts.gov/attorneys/membership/renewal-2> for additional information on renewing your membership with the 5th Circuit Bar.

Please note: you must renew through our website at the address above. Some attorneys renew membership in the Bar Association of the Fifth Federal Circuit, a private organization, and mistakenly think they have renewed their court bar membership.

Attorneys who miss the email notice must reapply (**\$249.00 vs. \$50.00**).

Attorneys often discover membership expired only while trying to file a document near a deadline!

THINGS YOU NEED TO KNOW:

HOW LONG DOES AN APPEAL TAKE?



From Notice of Appeal to Filing of Last Brief is 4.9 Months



From Submission to screening panel or from OA Hearing to Final Disposition is 1.9 Months



From Notice of Appeal to Final disposition is 7.8 months



The median time from Notice of Appeal to final disposition in oral argument cases is 12.4 Months.


ANOTHER THING YOU SHOULD KNOW:

HOW PANELS ARE CREATED

The court creates administrative, screening, and OA panels each year using a computer program that randomly assigns judges.



In creating panels, the program avoids duplicating previous panel compositions, to ensure all judges serve with one another.



If required, the Chief Judge approves other judges sitting by designation. We normally have 2-3 visiting judges each year.

HOW ARE CASES ASSIGNED TO PANELS?

- ▶ All assignments to judges and panels are random.
- ▶ For OA panels, a computer program randomly assigns cases to panels, subject to two exceptions. First, the program ensures that panels receive approximately the same number of criminal and civil appeals; and second, the program ensures no case is assigned to a recused judge. No other factor is considered.
- ▶ Assignments to administrative and screening panels are also random. The court establishes a random order for assigning matters before the start of a court year. Beginning on July 1, the clerk submits cases to judges and panels strictly following the preestablished order, unless a judge is recused.
- ▶ For administrative matters, because a party controls when matters are filed, this ensures matters are randomly assigned.
- ▶ We assign screeners when briefing is complete, again following the established order, thus again resulting in random assignment.
- ▶ These procedures ensure equitable work distribution as well as random assignment.

COMPOSITION OF PANELS IS NOT AS IMPORTANT AS SOME BELIEVE

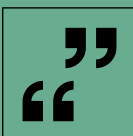
50



Precedent And Facts Matter
More Than Identify of Panel Judges Who Hear
An Appeal



Panels decide an overwhelming percentage
of appeals unanimously, based upon
precedent and the factual record



96.% of opinions issued without dissent (2,432 of
2,509 opinions)

PANEL DISSENTS AND CONCURRENCES IN THE FIFTH CIRCUIT

5th CIRCUIT OPINION CONCURRENCE AND DISSENT RATES THREE JUDGE PANELS FOR 2023-2024

Number of Panel Opinions	2504		% of Panel Opinions
Number of Panel Opinions without Dissent	2403		96.0%
Number of Panel Opinions with Separate Dissents or Concurrences	101		4.0%
Panel Opinions with a Dissenting Opinion		51	2.0%
Panel Opinions with Concurring and Dissenting in part Opinions		18	0.7%

OTHER THINGS YOU NEED TO KNOW:

52

WHAT IS YOUR CHANCE OF WINNING?

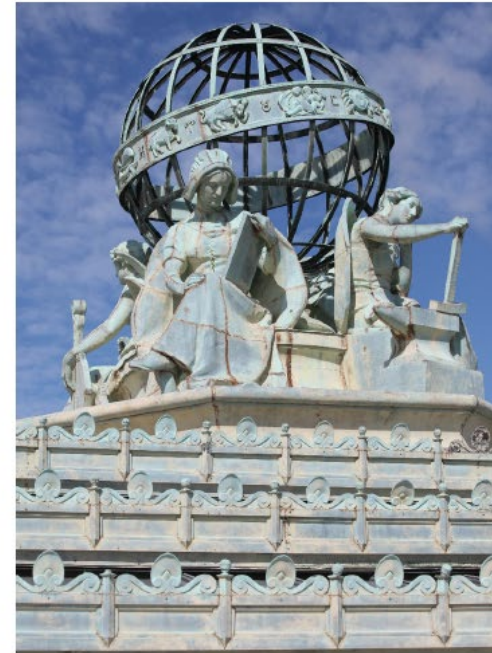
- ▶ For the court year ending June 30, 2024, the court reversed 7.1% of appeals, down from 7.4% during 2023. This was the fourth lowest reversal rate for all appellate courts.
 - ▶ 2.0% of criminal appeals
 - ▶ 15.2% of non-prisoner “U.S. Civil Cases”
 - ▶ 17.2% of other civil cases
- ▶ Detailed statistical information can be found in the Clerk’s Annual Statistical Report on the Court’s internet site, under the “About the Court” tab, in the “Court Statistics” section. The 2024 report will be available in September.

CLERK'S ANNUAL REPORT

► https://www.ca5.uscourts.gov/docs/default-source/default-document-library/clerk's-annual-report-july-2023-to-june-2024.pdf?sfvrsn=f70cc92d_2

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JUDICIAL
WORKLOAD
STATISTICS



*UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT*

CLERK'S ANNUAL REPORT
JULY 2023 - JUNE 2024

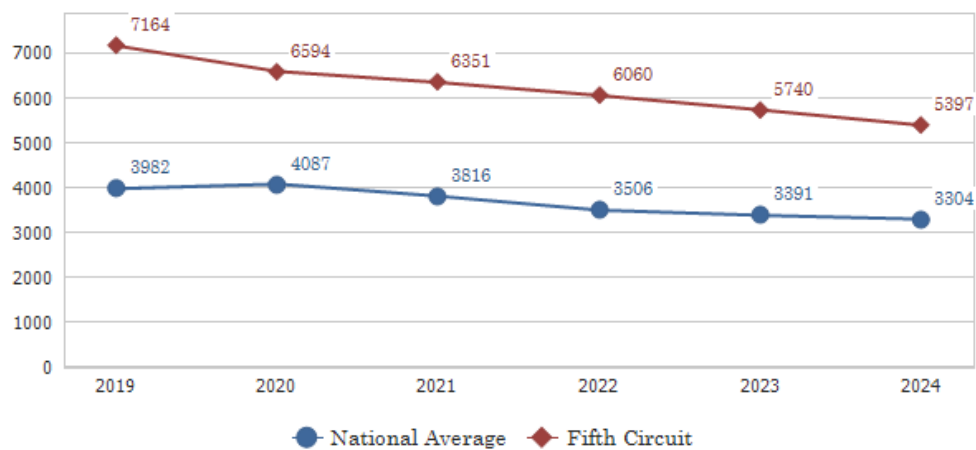
STATISTICS REVEAL SOME INTERESTING FACTS

We are the second busiest appellate court by appeals filed and in 2024, each judge handled 660 adjusted filings – second only to the 11th Cir where judges handled 678 filings.

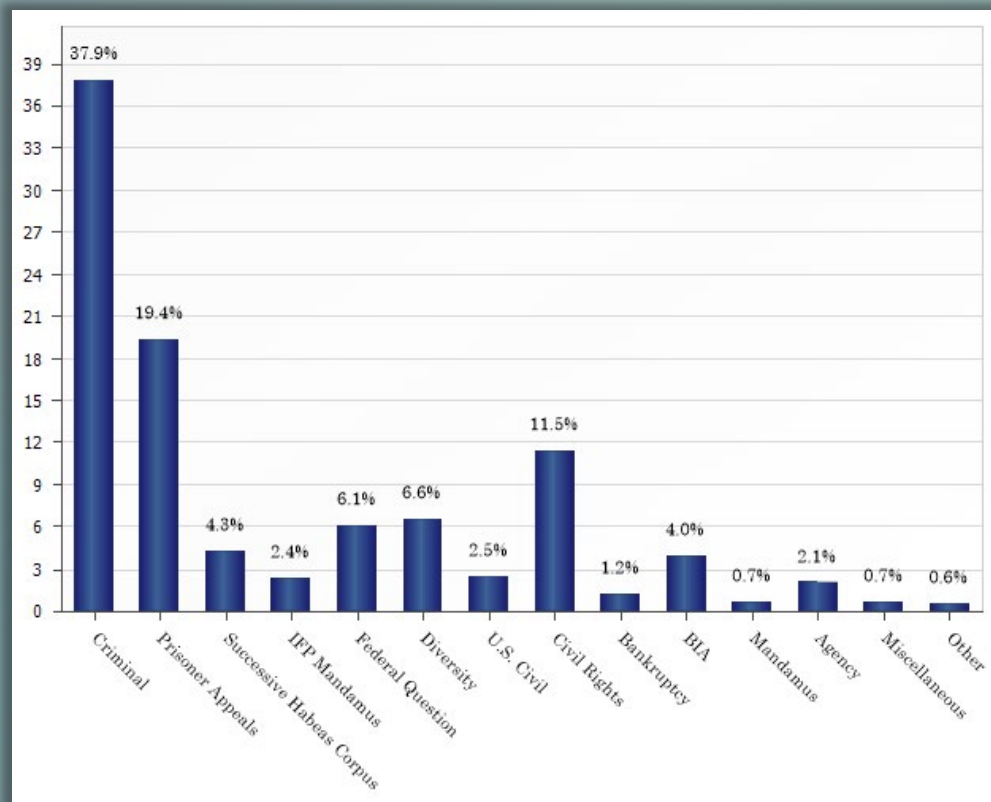
We issued 2,509 opinions last year, and active judge wrote about 109 opinions. Each active judge was a panel member in 1763 opinions.

The court's workload included a significant number of emergency and expedited appeals. We handled 133 such appeals in 2024, compared to only 88 last year.

Amicus filings added to the workload. We received 383 amicus briefs in 2023, and 380 in 2024.



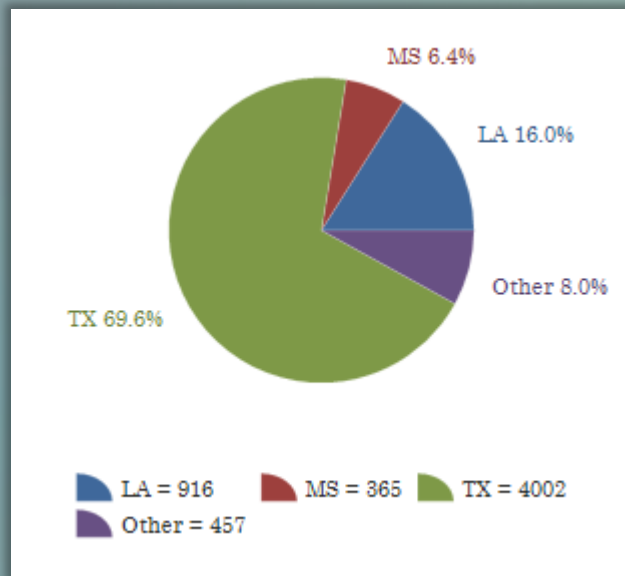
New Appeals Filed



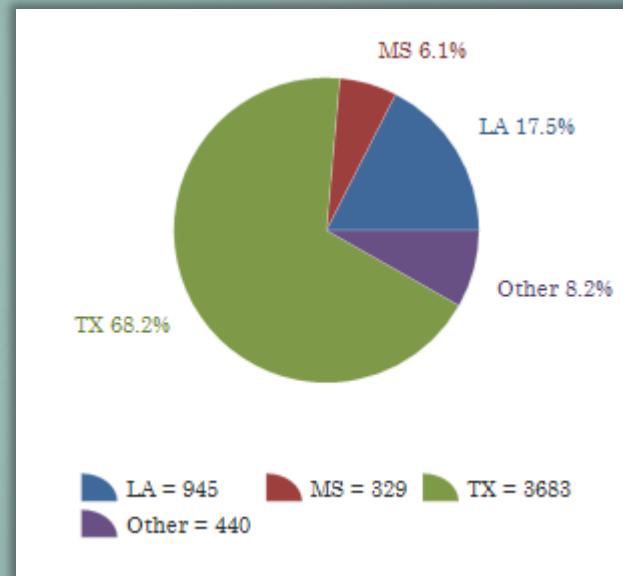
NEW APPEALS BY CASE TYPE

APPEALS BY STATE

2023 NEW APPEALS

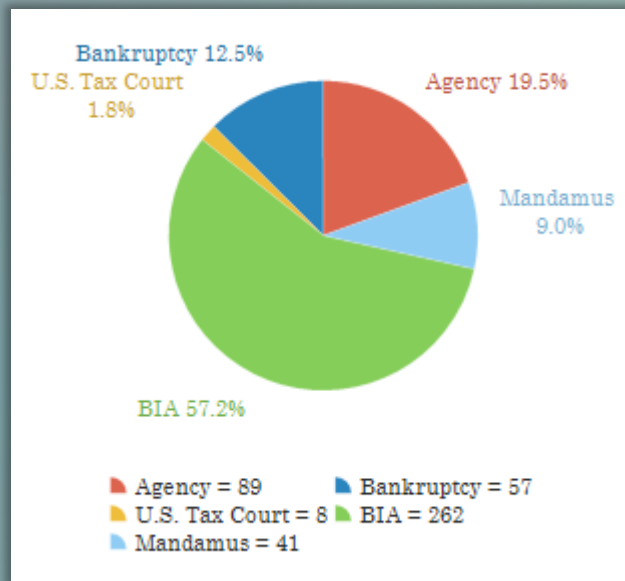


2024 NEW APPEALS

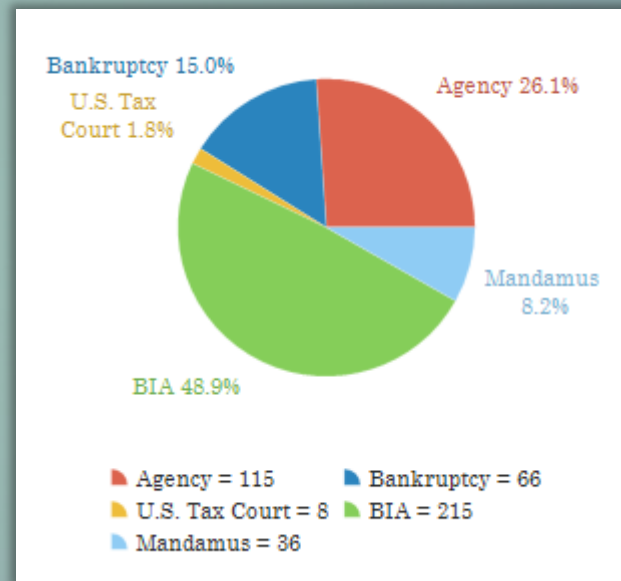


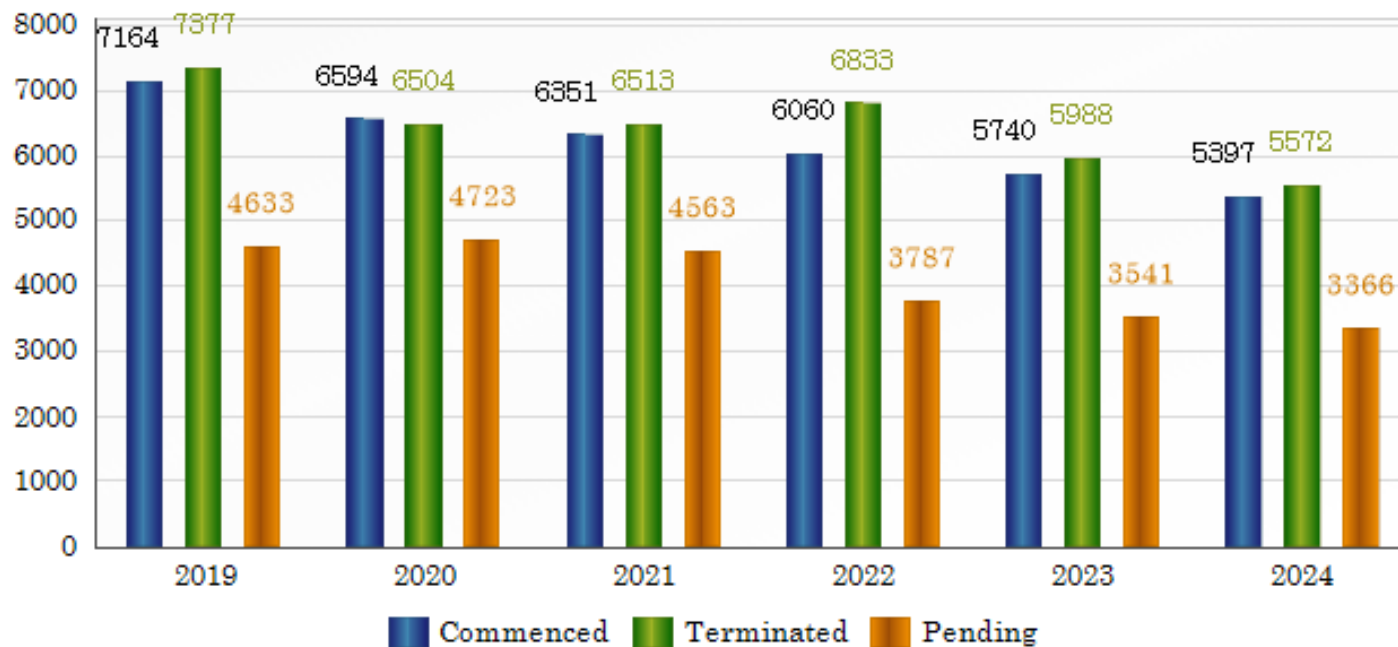
OTHER APPEALS BY SOURCE

2023 NEW APPEALS

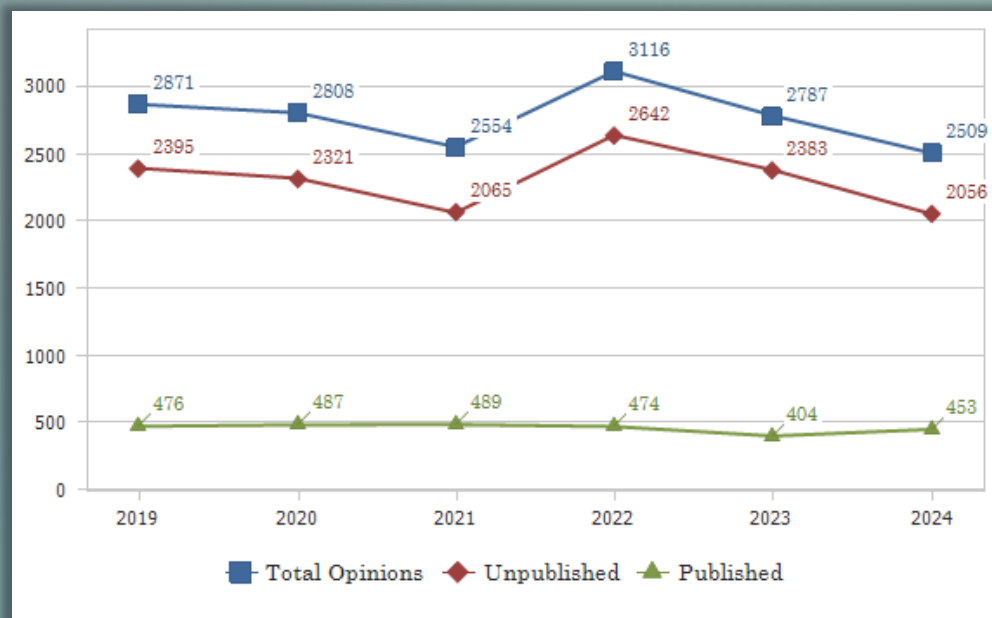


2024 NEW APPEALS



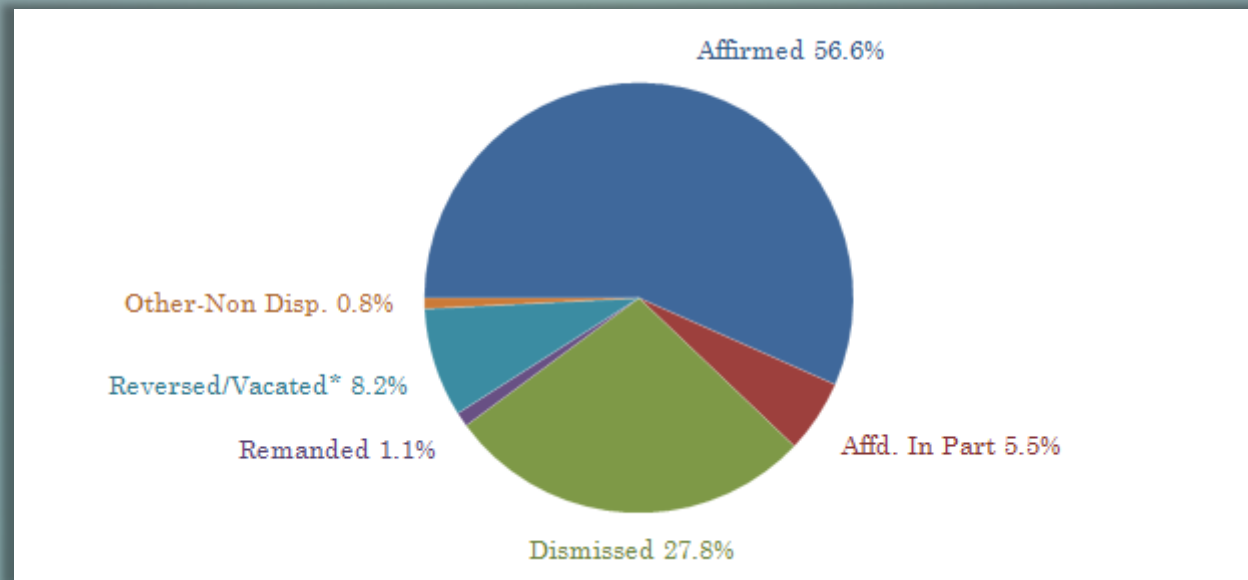


SUMMARY OF APPEALS COMMENCED, TERMINATED AND PENDING



NUMBER OF PUBLISHED AND UNPUBLISHED OPINIONS

REVERSAL RATE



REVERSAL RATE BY CASE TYPE

62

Case Type	Decision Type	2021		2022		2023		2024	
		No.	%	No.	%	No.	%	No.	%
Criminal	Affirmed/Affd. In Part	797	62.90%	841	54.20%	754	54.56%	713	53.60%
	Dismissed	420	33.15%	630	40.59%	568	41.10%	580	43.61%
	Reversed/Vacated/Remanded	49	3.87%	80	5.15%	57	4.12%	36	2.71%
	Transferred/Other-Non Disp.	1	0.08%	1	0.06%	3	0.22%	1	0.08%
	Total Cases	1,267		1,552		1,382		1,330	
Prisoner Appeals	Affirmed/Affd. In Part	176	53.50%	215	55.27%	176	57.33%	140	64.52%
	Dismissed	102	31.00%	135	34.70%	95	30.94%	51	23.50%
	Reversed/Vacated/Remanded	46	13.98%	39	10.03%	35	11.40%	23	10.60%
	Transferred/Other-Non Disp.	5	1.52%	0	0.00%	1	0.33%	3	1.38%
	Total Cases	329		389		307		217	
Federal Question	Affirmed/Affd. In Part	111	70.70%	119	71.69%	115	73.25%	103	73.05%
	Dismissed	17	10.83%	8	4.82%	12	7.64%	7	4.96%
	Reversed/Vacated/Remanded	28	17.83%	35	21.08%	29	18.47%	31	21.99%
	Transferred/Other-Non Disp.	1	0.64%	4	2.41%	1	0.64%	0	0.00%
	Total Cases	157		166		157		141	
Diversity	Affirmed/Affd. In Part	127	78.40%	152	74.88%	128	80.50%	136	74.73%
	Dismissed	7	4.32%	13	6.40%	8	5.03%	5	2.75%
	Reversed/Vacated/Remanded	24	14.81%	32	15.76%	20	12.58%	31	17.03%
	Transferred/Other-Non Disp.	4	2.47%	6	2.96%	3	1.89%	10	5.49%
	Total Cases	162		203		159		182	
U.S. Civil	Affirmed/Affd. In Part	27	71.06%	45	68.17%	40	63.49%	34	56.67%
	Dismissed	2	5.26%	5	7.58%	6	9.52%	10	16.67%
	Reversed/Vacated/Remanded	9	23.68%	13	19.70%	16	25.40%	14	23.33%
	Transferred/Other-Non Disp.	0	0.00%	3	4.55%	1	1.59%	2	3.33%
	Total Cases	38		66		63		60	
Tax Court	Affirmed/Affd. In Part	6	100.00%	5	100.00%	2	50.00%	2	100.00%
	Dismissed	0	0.00%	0	0.00%	2	50.00%	0	0.00%
	Reversed/Vacated/Remanded	0	0.00%	0	0.00%	0	0.00%	0	0.00%
	Transferred/Other-Non Disp.	0	0.00%	0	0.00%	0	0.00%	0	0.00%
	Total Cases	6		5		4		2	

REVERSAL RATE BY CASE TYPE

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Case Type	Decision Type	2021		2022		2023		2024	
		No.	%	No.	%	No.	%	No.	%
Civil Rights	Affirmed/Affd. In Part	194	76.98%	180	74.07%	206	74.63%	241	73.93%
	Dismissed	11	4.37%	16	6.58%	21	7.61%	30	9.20%
	Reversed/Vacated/Remanded	42	16.67%	43	17.70%	46	16.67%	54	16.56%
	Transferred/Other-Non Disp.	5	1.98%	4	1.65%	3	1.09%	1	0.31%
	Total Cases	252		243		276		326	
Bankruptcy	Affirmed/Affd. In Part	20	71.43%	21	44.67%	28	82.36%	26	74.28%
	Dismissed	3	10.71%	19	40.43%	3	8.82%	1	2.86%
	Reversed/Vacated/Remanded	5	17.86%	6	12.77%	3	8.82%	8	22.86%
	Transferred/Other-Non Disp.	0	0.00%	1	2.13%	0	0.00%	0	0.00%
	Total Cases	28		47		34		35	
Social Security	Affirmed/Affd. In Part	8	100.00%	9	90.00%	12	100.00%	9	100.00%
	Dismissed	0	0.00%	0	0.00%	0	0.00%	0	0.00%
	Reversed/Vacated/Remanded	0	0.00%	1	10.00%	0	0.00%	0	0.00%
	Transferred/Other-Non Disp.	0	0.00%	0	0.00%	0	0.00%	0	0.00%
	Total Cases	8		10		12		9	
BIA	Affirmed/Affd. In Part	220	90.91%	350	88.38%	305	86.65%	129	89.59%
	Dismissed	14	5.79%	19	4.80%	34	9.66%	10	6.94%
	Reversed/Vacated/Remanded	7	2.89%	23	5.81%	13	3.69%	5	3.47%
	Transferred/Other-Non Disp.	1	0.41%	4	1.01%	0	0.00%	0	0.00%
	Total Cases	242		396		352		144	
Agency	Affirmed/Affd. In Part	23	74.19%	9	56.25%	11	64.71%	12	40.00%
	Dismissed	2	6.45%	1	6.25%	1	5.88%	1	3.33%
	Reversed/Vacated/Remanded	5	16.13%	3	18.75%	5	29.41%	15	50.00%
	Transferred/Other-Non Disp.	1	3.23%	3	18.75%	0	0.00%	2	6.67%
	Total Cases	31		16		17		30	
	Grand Total Cases	2,520		3,093		2,763		2,476	

JULY 1, 2023, TO JUNE 30, 2024

	Cases Commenced	Procedural Terminations	Total Merits Terminations	Merits Terminations After Oral Hearing	Merits Terminations on Briefs	% Placed on the Oral Argument Calendar	% Reversed
Criminal	2,046	372	1,603	199	1,220	12.4	2.0
U.S. Prisoner Petitions	268	132	147	15	112	10.2	2.4
Other U.S. Civil	236	133	119	57	48	47.9	15.2
Private Prisoner Petitions	774	463	378	55	255	14.6	5.2
Other Private Civil	1,232	565	807	430	205	53.3	17.2
Bankruptcy	67	15	39	27	9	69.2	19.4
Administrative Agency	338	145	214	61	127	28.5	10.6
Original Proceedings*	397	137	264	2	259	0.8	0.0
Miscellaneous	38	1	37	0	36	0.0	0.0
TOTAL	5,396	1,963	3,608	846	2,271	23.4	7.1
Louisiana	945	379	563	205	173	36.4%	9.9%
Mississippi	329	105	165	43	72	26.1%	8.5%
Texas	3,684	1,197	2,402	544	1,241	22.6%	5.9%
	Total Number of Published Opinions	Total Number of Unpublished Opinions	Number of Petitions for Panel Rehearing	Number of Panel Rehearings Granted	Number of Petitions for Rehearing En Banc	Number of Petitions for Rehearing En Banc Granted	
Fifth Circuit	453	2,056	176	3	205	9	
Louisiana	112	273	39	1	42	1	
Mississippi	21	100	7	1	7	2	
Texas	276	1,541	112	7	129	3	

*Including successive habeas corpus and pro se mandamus petitions. Total may not match entries as this excludes agency appeals.

MANDATE HOLDS AND EN BANC POLLS

During court year 2023-2024, Judges held the mandate in 63 cases.

34 of these holds were later withdrawn without a request for a poll.

A poll was requested in 20 appeals.

In 14 of the 20 polls, the court denied en banc but granted in 6 appeals.

Court publishes orders denying en banc rehearing after a poll lists the votes of individual judges and are published.

The court held OA in 10 en banc proceedings.

CERTIFIED QUESTIONS

- ▶ When the court faces facing unresolved issues of state law, it can make an “Erie guess” about what the state’s highest court would decide but can also ask a state court to consider the issue, to give the states opportunity to interpret the state law.
- ▶ During the past four years, the Fifth Circuit certified 34 questions to state supreme courts – consistent with our historical averages.
- ▶ We certified more questions to Texas (22), than Louisiana (9), or Mississippi (3).

SOME
ADDITIONAL
OBSERVATIONS
REGARDING
CERTIFIED
QUESTIONS

- ▶ In 37 appeals, parties asked the court to certify to the state supreme court. The court declined to do so in 31 of those cases.
- ▶ In 28 appeals, the court sua sponte decided to certify a question.
- ▶ Question: Did parties correctly identify when certification was required? Motions to certify were denied in 31 of 37 instances, and the parties did not request certification in 28 instances where the court sua sponte certified.

SOME
ADDITIONAL
OBSERVATIONS
REGARDING
CERTIFIED
QUESTIONS

- ▶ We should recognize that a state supreme court decides, in its discretion, whether to accept certified questions.
- ▶ Texas and Mississippi accepted all certifications while Louisiana accepted only 3 of the 9 questions certified to that court.
- ▶ In 3 instances, the parties settled the case after certification and the appeal was dismissed. (Perhaps the parties didn't want to wait and see what the state court would do.)

CERTIFICATION OF STATE-LAW ISSUES SEPT 2020-SEPTEMBER 2024



CERTIFY QUESTION	BY MOTION	SUA SPONTE	AWAITING RESPONSE	ACCEPTED AND PENDING	ANSWERED	DECLINED	OTHER *
Granted	6	28	1	5	22	3	3
Denied	31						

*In cases 21-10012, 21-10462 & 23-50515, the certified question was accepted however the parties filed a motion with this court to withdraw the certified question and dismiss the appeal. Motions granted.


TOTAL BY STATE	BY MOTION	SUA SPONTE	AWAITING RESPONSE	ACCEPTED AND PENDING	ANSWERED	DECLINED	OTHER *
LA - 9	2	7			6	3	
MS - 3	0	3		2	1		
TX - 22	4	18	1	3	15		3

MEDIATION PROGRAM

- ▶ Cases considered: most counseled civil cases. Exceptions – Social Security, immigration, cases involving constitutional challenges to statutes or regulations
- ▶ Timing: we contact attorneys soon after the notice of appeal is filed and offer settlement assistance before briefing. Occasionally, attorneys want to await briefing before discussing settlement, but in those cases, mediators seek to resolve the appeal before assignment to a panel.
- ▶ Methods: an initial telephone conference with attorneys. This can be followed either with further telephone diplomacy, or live mediation (either in-person or by Zoom).
- ▶ Occasionally, a panel will refer a matter to us before or after argument. These typically are close cases where the panel thinks both sides have clear risk. However, sometimes the panel just thinks it would be beneficial for both sides to settle.
- ▶ Settlement rate: historically, 30 to 35 percent of cases where we mediate.

COURT'S PRO BONO PROGRAM

- ▶ Court Mediation and Judicial Support Office maintains a list of attorneys willing to accept pro bono appointments. We encourage members of the bar to offer services.
- ▶ Panels normally request counsel at either screening or oral argument, although a pro se may make an earlier request.
- ▶ A pro bono coordinator contacts counsel on the list and determines who is available and submits recommendations for appointment. We average 2 to 5 such requests per year.



CLOSING THOUGHTS

- ▶ Clerk staff take pride in our reputation as an attorney friendly court.
- ▶ We developed innovative processes and tools to help attorneys comply with procedural and technical pleading requirements, to help attorneys focus on the substantive legal issues in appeals.
- ▶ Our goal is to make an attorney's experience litigating in our court easier and less stressful, and to provide Platinum Service.
- ▶ Help us achieve that goal by giving feedback on all aspects of our operations.