



WHAT'S NEW IN THE CLERK'S OFFICE?

**PRACTICING IN THE FIFTH CIRCUIT
TIPS FOR THE APPELLATE BAR**

LYLE CAYCE

**CLERK OF COURT
OCTOBER 7, 2025**



TOPICS

- **“About the court” – a quick circuit overview**
- **Accessing case-related information and understanding how internal court procedures impact your appeal**
- **Helpful Resources (including our “Attorney Toolbox”)**
- **Practice Tips – Errors to avoid**
- **A few statistics**
- **Current and future use of AI in case processing**

QUICK CIRCUIT OVERVIEW

NINE DISTRICTS IN THREE STATES

(28 USC §41)

3 Louisiana Districts:

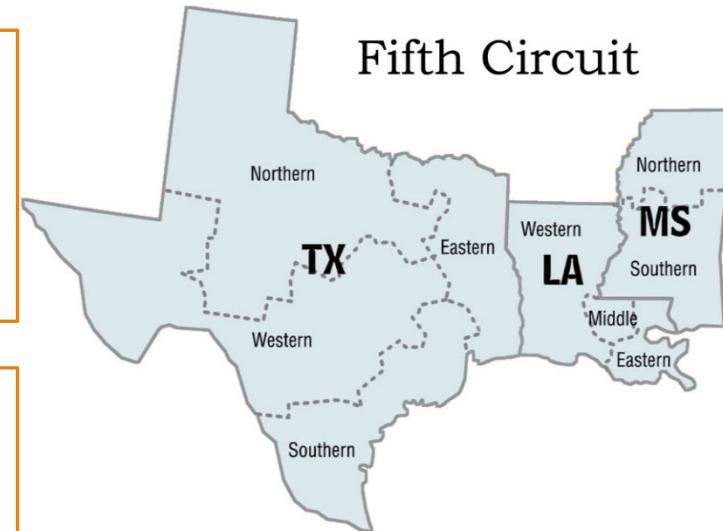
- Eastern District, New Orleans
 - Chief Judge Wendy B. Vitter - Clerk Carol L. Michel
- Middle District, Baton Rouge
 - Chief Judge Shelly D. Dick - Clerk Mike L. McConnell
- Western District, Shreveport
 - Chief Judge Terry A. Dougherty - Clerk Daniel J. McCoy

2 Mississippi Districts:

- Northern District, Oxford
 - Chief Judge Debra M. Brown - Clerk David Crews
- Southern District, Jackson
 - Chief Judge Halil S. Ozerden- Clerk Arthur Johnston, III

4 Texas Districts:

- Eastern District, Beaumont
 - Chief Judge Amos L. Mazzant, III - Clerk David O'Toole
- Northern District, Dallas
 - Chief Judge Reed O'Connor - Clerk Karen Mitchell
- Southern District, Houston
 - Chief Judge Randy Crane - Clerk Nathan Ochsner
- Western District, San Antonio
 - Chief Judge Alia Moses - Clerk Philip J. Devlin



THE COURT HAS 17 ACTIVE AND 7 SENIOR* JUDGES, IN THE LOCATIONS NOTED.

Houston

Chief Judge Elrod and
Judges King*, Jones, and
Smith

Austin

Judges Richman,
Willett, Oldham and
Higginbotham*

Dallas

Judges Haynes, Ho, and
Ramirez

Jackson

Judges Barksdale*,
Southwick, Graves, and
Wilson

Shreveport

Judge Stewart

New Orleans

Judges Davis*, Wiener*,
Dennis*, Clement*,
Higginson, Engelhardt
and Douglas

Baton Rouge

Judge Duncan

HOW TO ACCESS CASE INFORMATION, ORAL ARGUMENTS, AND OPINIONS?

Sign up to receive notice of case activity and access documents through PACER.

We live stream audio of all oral arguments (including from Law Schools) on our website.

Recordings of OA are uploaded to the Court Website and our YouTube channel shortly after the hearing ends.

We post opinions at least twice daily on our website. Subscribe at the link below to receive email notices of opinions: <https://www.ca5.uscourts.gov/electronic-case-filing/case-information/opinion-subscriptions>





UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Honorable Jennifer W. Elrod, Chief Judge



ABOUT THE
COURT

ATTORNEY
INFORMATION

CASE INFO & E-
FILING

ORAL ARGUMENT
INFORMATION

RULES &
PROCEDURES

FORMS,
GUIDE

News & Announcements

[Latest Opinions/Orders](#)

[Current Vacancies](#)

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](#).

[February 3 - 6 Oral Argument Links](#)

[Press Release - New Chief Judge](#)

Attention CM/ECF Filers

Effective immediately, electronic case filing (CM/ECF) will be unavailable every Saturday from 6:00 a.m. to approximately 7:00 a.m. central standard time to permit scheduled maintenance.



Lafayette Square East

1 2

Quick Links

- [Contact the Clerk's Office About My Case](#)
- [Electronic Filing and PACER Login](#)
- [Calendars](#)
- [Opinion Subscriptions](#)
- [Oral Argument Recordings](#)
- [Oral Argument Live Streams](#)
- [O.A. Live Streams by Case](#)
- [Clerk's Office FAQs](#)
- [ECF Filing Instructions](#)
- [Assistance in Preparing Briefs](#)

Other Resources

- [Pattern Jury Instructions](#)
- [CJA Vouchers](#)
- [Vacancies](#)
- [Judicial Seminars Disclosure](#)
- [Judicial Conduct and Disability](#)
- [Reports of Judicial Conduct Proceedings](#)
- [Your Employee Rights and How to Report Wrongful Conduct](#)
- [Civics Education](#)

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Listening to live arguments

LIVE STREAMS

By DAY

By CASE

	ABOUT THE COURT	ATTORNEY INFORMATION	CASE INFO & E-FILING	ORAL ARGUMENT INFORMATION	RULES & PROCEDURES	FORMS, FEES & GUIDES	OTHER LINKS
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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

[Return to Calendars Home](#)

	ABOUT THE COURT	ATTORNEY INFORMATION	CASE INFO & E-FILING	ORAL ARGUMENT INFORMATION	RULES & PROCEDURES	FORMS, FEES & GUIDES	OTHER LINKS
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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-Empl	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
23-20523	Zyla Life Sciences, Appellant-Appellee v. Wells Pharma of	8/23/2024	Other personal prop	9:00 AM	East Courtroom



U.S. Court of Appeals for the Fifth Circuit

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23-20171 Disability Rights	23-10575 Mico, L.L.C. v.	23-10804 Amer Pearl Grp v.	23-30386 Lewis v. Crochet,	23-30460 Marsh v. Chas
<p>Disability Rights Texas v. Hollis</p> <p>Monday, March 4, 2024 LSU School of Law</p> <p>PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>JEFFERY T. NOBLE BRANT LEVINE COURTNEY FAITH</p> <p>43:04</p>	<p>Mico, L.L.C. v. Pioneer</p> <p>Monday, March 4, 2024 LSU School of Law</p> <p>PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>CHRISTOPHER M. J. J.</p> <p>43:04</p>	<p>Amer Pearl Grp v. Natl Payment Sys</p> <p>Monday, March 4, 2024 LSU School of Law</p> <p>PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>KENNETH J. CATANZAR PETER N. KESSLE</p> <p>37:21</p>	<p>Lewis v. Crochet</p> <p>Monday, March 4, 2024 LSU School of Law</p> <p>PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>BRANDON KELLY BL LARRY ENGLISH</p> <p>39:44</p>	<p>Marsh v. Chas Kurz</p> <p>Monday, March 4, 2024 LSU School of Law</p> <p>PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>MEREDITH KAY CL JOSEPH EDWARD LEL</p> <p>40:40</p>

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23-20171 Disability Rights Texas v. Hollis, March 4, 2024



U.S. Court of Appeals for the Fifth Circuit
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ITEMS OF INTEREST ELECTRONIC FILING AND CYBERSECURITY

Implementation of Multifactor Authentication for CM/ECF:

Multifactor authentication (MFA) is now available for PACER and CM/ECF. PACER account users with filing and all other types of CM/ECF-level access are required to enroll in MFA and are encouraged to do so at their earliest convenience. MFA enrollment is optional for users with PACER-only access, but it is strongly recommended. Users with CM/ECF-level access who do not voluntarily enroll will be randomly selected to enroll starting in August. By the end of 2025, everyone with CM/ECF-level access must use MFA when logging in.

Updated PACER Password Standards As part of an ongoing effort to secure the PACER service and CM/ECF systems, the Administrative Office of the U.S. Courts (AO) will enforce updated PACER and CM/ECF password standards on August 25, 2025. Court users who use their JENIE accounts to access PACER or CM/ECF will not be affected. Users with PACER-only (search/view only) accounts (e.g., interns and externs), including PACER Administrative Accounts (PAAs), will be prompted to update their password upon login starting August 25 if they have not updated it as of May 11. However, PACER-only users can update their password now and are encouraged to do so. The new password must: 1. Be 14–45 characters in length. 2. Contain at least one lowercase letter, one uppercase letter, and one special character. 3. Not contain any part of your first name, last name, username, or email address. All PACER users must also update their password every 180 days.

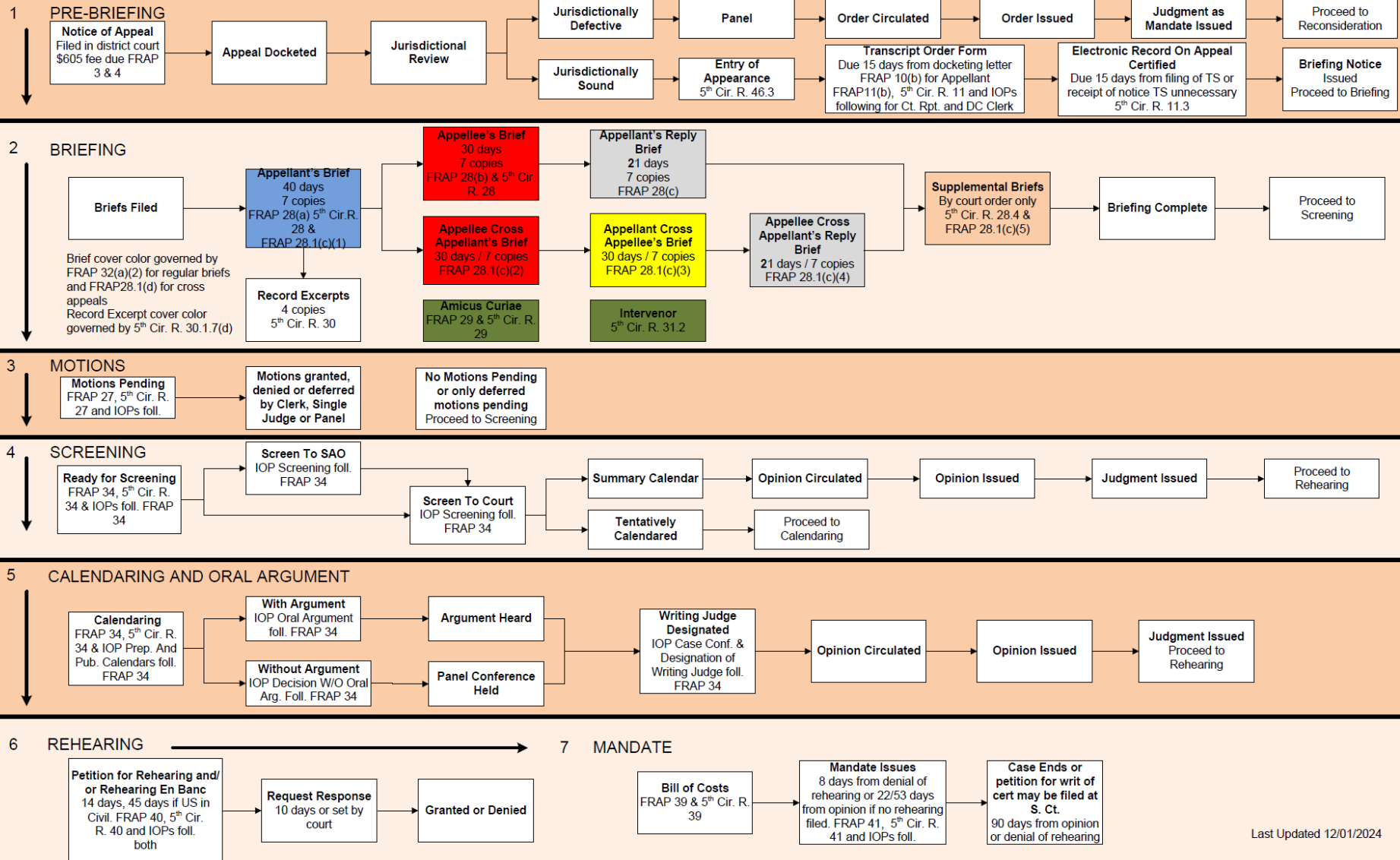
ITEMS OF INTEREST

KEY RESOURCES FOR ATTORNEYS

- ▶ Website: www.ca5.uscourts.gov (Access to OA livestreams, calendars, opinions, and so much more!)
 - ▶ [Practitioner Guide](#) (please review!)
 - ▶ [Fifth Circuit Life of the Appeal Flow Chart](#)
 - ▶ [Frequently Asked Questions \(FAQ\)](#)
 - ▶ [Brief Guidance and Sample Briefs](#)
 - ▶ [Guide to Filing Emergency Motions](#)
 - ▶ [Record Reference Guide \(Cite link\)](#)
 - ▶ [Case Management Teams Contact List](#)
 - ▶ [5th Circuit YouTube Channel](#)
 - ▶ Help Desk: 877.232-1038 or Webmaster@ca5.uscourts.gov
 - ▶ ATTORNEY TOOLBOX in [CM/ECF](#)!

THE LIFE OF AN APPEAL IN THE FIFTH CIRCUIT COURT OF APPEALS*

* Does not encompass Mandamus, Original Proceedings or Petitions for Review



Last Updated 12/01/2024


<https://www.ca5.uscourts.gov/docs/default-source/forms-and-documents---clerks-office/documents/5CCAppellateFlowChart>

CALLING THE CLERKS OFFICE ABOUT YOUR APPEAL

CASE MANAGEMENT TEAMS		
Case Administration Manager: Peter Connors 310-7685		All Clerk's Office Numbers are 504 Area Code
NORTHERN AND WESTERN TEXAS 10001-19999 50001-59999 Group Main No. 310-7806	SOUTHERN AND EASTERN TEXAS 20001-29999 40001-49999 Group Main No. 310-7807	LOUISIANA, MISSISSIPPI, & AGENCY 30001-39999 60001-69999 Group Main No. 310-7808
<u>CASE MANAGER</u>	<u>CASE ADMINISTRATOR TEAM LEADER</u>	<u>CASE MANAGER</u>
Christina Gardner (CAG) 310-7684	Angelique Tardie (ABT) 310-7715	Shea Pertuit VanVoorhis (SEP) 310-7666
Case Management Nos. Ending in 0: are routed as identified below based on the second to last number. Nos. Ending in 1, & 2: Casey Sullivan (CAS): 310-7642 Nos. Ending in 3, & 4 and Death Penalty: Mary Frances Yeager (MFY): 310-7686 Nos. Ending in 5, & 6: Lisa Ferrara (LEF): 310-7675 No. ending in 7, & 8: Melissa Courseault (MBC): 310-7701 No. ending in 9: Jasmine Forman (JJE): 310-7649 Generalist Work Only: Eyonka Falls (EMF): 310-7670 Rebecca Jeanfreau (RLJ): 310-7645 Nos Ending in Even#s: Renee McDonough (RSM): 310-7673 Nos Ending in Odd#s: Routed to Case Management Clerks	Nos. Ending in 0: Melissa Mattingly (MRM): 310-7719 Nos. Ending in 1: Rebecca Andry (RCA): 310-7638 Nos. Ending in 2: Amanda Duroncelet (AMD): 310-7636 Nos. Ending in 3: Christy Combrel (CMC): 310-7651 Nos. Ending in 4, & 5: Rebecca Leto (RLJ): 310-7703 Nos. Ending in 6, & 7: Dantrell Johnson (DLJ): 310-7689 Nos. Ending in 8, & 9: Roeshawn Johnson (RAJ): 310-7998 Generalist Work Only: Sean Hannan (SRH): 310-7702 Shatyra Rasheed (SMR): 310-7646 Record Clerk: Dawn LeBlanc (DDL): 310-7717	Nos. Ending in 0: Melissa Mattingly (MRM): 310-7719 Nos. Ending in 1: Rebecca Andry (RCA): 310-7638 Nos. Ending in 2: Amanda Duroncelet (AMD): 310-7636 Nos. Ending in 3: Christy Combrel (CMC): 310-7651 Nos. Ending in 4, & 5: Rebecca Leto (RLJ): 310-7703 Nos. Ending in 6, & 7: Dantrell Johnson (DLJ): 310-7689 Nos. Ending in 8, & 9: Roeshawn Johnson (RAJ): 310-7998 Generalist Work Only: Sean Hannan (SRH): 310-7702 Shatyra Rasheed (SMR): 310-7646 Record Clerk: Dawn LeBlanc (DDL): 310-7717
DEATH PENALTY 70000 Mary Frances Yeager (MFY): 310-7686; 1 st Backup: Casey Sullivan (CAS) 310-7642; 2 nd Backup: Dantrell Johnson (DLJ): 310-7689		
ALL TEAMS/ALL CASE NUMBERS		
OPINION SPECIALIST TEAM LINE: 310-7800 Peter Connors: 310-7685 Christy Combrel: 310-7651		RECORDS DATA QUALITY ANALYSTS Dawn LeBlanc (DDL): 310-7717

FEATURES THAT HELP ATTORNEYS PRACTICE IN OUR COURT

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NEW ATTORNEY TOOLBOX


**Attorney Toolbox**
United States Court of Appeals for the Fifth Circuit


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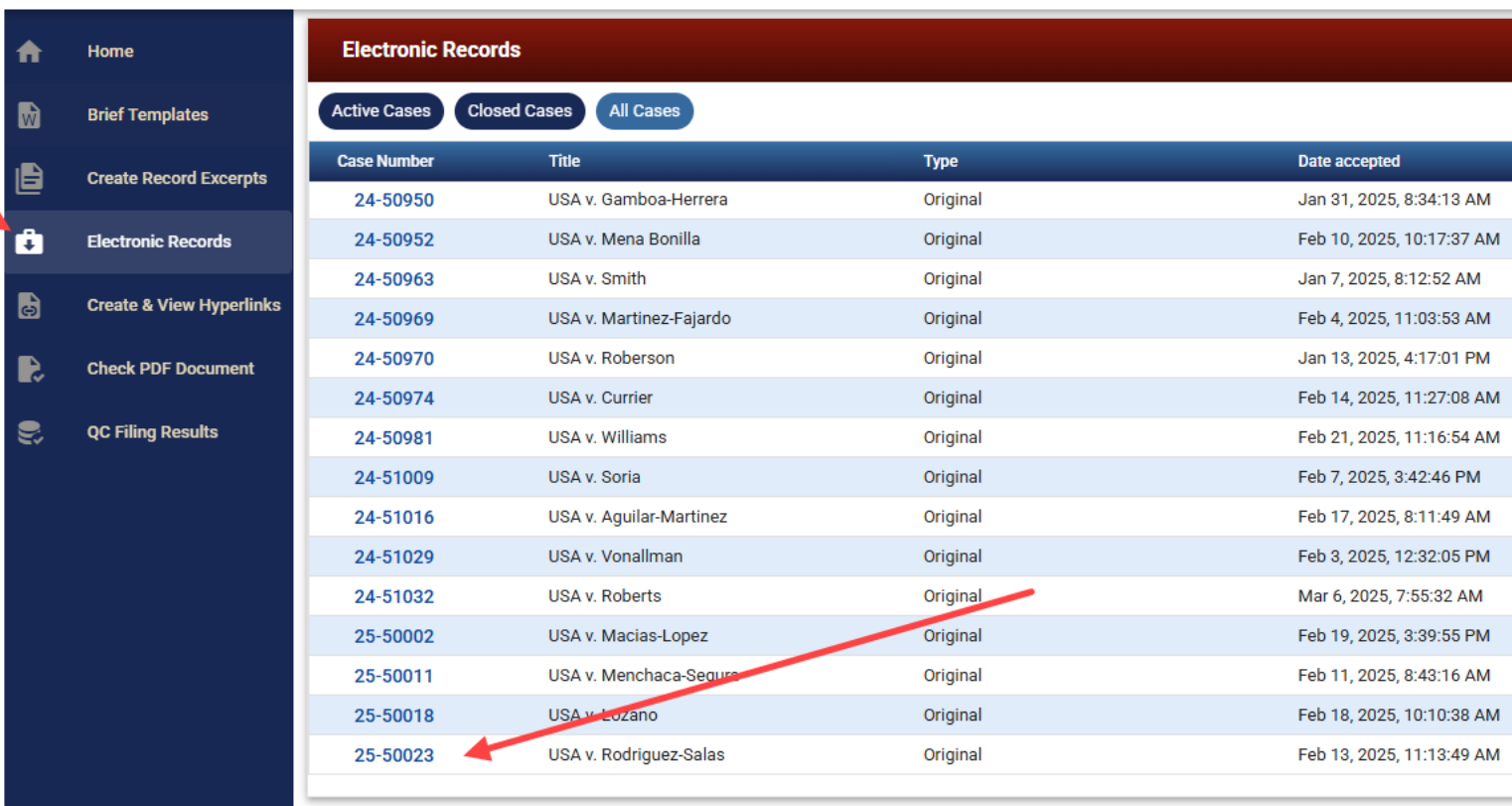
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Select the Brief Templates link to download a partially completed brief for active cases in which you have filed an appearance form. Select Create Record Excerpts to use our utility to assist you in creating the required Record Excerpts. You can download the public portions of a compiled electronic records via the Electronic Records link. You can also use the Create & View Hyperlinks link to upload documents prior to filing to verify the citations recognized, including the ROA citations. The ROA citations are active links, clicking upon them will retrieve the document that contains the bates number so you can verify that you are citing the correct content in the record on appeal.



Electronic Records

Active Cases Closed Cases All Cases

Case Number	Title	Type	Date accepted
24-50950	USA v. Gamboa-Herrera	Original	Jan 31, 2025, 8:34:13 AM
24-50952	USA v. Mena Bonilla	Original	Feb 10, 2025, 10:17:37 AM
24-50963	USA v. Smith	Original	Jan 7, 2025, 8:12:52 AM
24-50969	USA v. Martinez-Fajardo	Original	Feb 4, 2025, 11:03:53 AM
24-50970	USA v. Roberson	Original	Jan 13, 2025, 4:17:01 PM
24-50974	USA v. Currier	Original	Feb 14, 2025, 11:27:08 AM
24-50981	USA v. Williams	Original	Feb 21, 2025, 11:16:54 AM
24-51009	USA v. Soria	Original	Feb 7, 2025, 3:42:46 PM
24-51016	USA v. Aguilar-Martinez	Original	Feb 17, 2025, 8:11:49 AM
24-51029	USA v. Vonallman	Original	Feb 3, 2025, 12:32:05 PM
24-51032	USA v. Roberts	Original	Mar 6, 2025, 7:55:32 AM
25-50002	USA v. Macias-Lopez	Original	Feb 19, 2025, 3:39:55 PM
25-50011	USA v. Menchaca-Segura	Original	Feb 11, 2025, 8:43:16 AM
25-50018	USA v. Lozano	Original	Feb 18, 2025, 10:10:38 AM
25-50023	USA v. Rodriguez-Salas	Original	Feb 13, 2025, 11:13:49 AM

Downloading the EROA

Click on “Electronic Records” to download an EROA. Select the record.

This screen shows multiple EROA files available to a public defender.



✕ Record Volumes for 25-50023 -- accepted Feb 13, 2025, 11:13:49 AM

SELECT ALL VOLUMES
REMOVE ALL VOLUMES
CREATE PDF PORFOLIO

Selected	Volume/Document	Action	Pages	Download
<input checked="" type="checkbox"/>	Docket Sheet for 2:22-CR-1541-1	REMOVE	1 - 7	DOWNLOAD
<input checked="" type="checkbox"/>	▸ Pleadings	REMOVE	8 - 135	DOWNLOAD
<input checked="" type="checkbox"/>	▸ Proceedings Transcribed: Rearraignment Hearing Held on 8/15/2022.	REMOVE	136 - 154	DOWNLOAD
<input checked="" type="checkbox"/>	▸ Proceedings Transcribed: Sentencing Hearing Held on 4/10/2023.	REMOVE	155 - 171	DOWNLOAD
<input checked="" type="checkbox"/>	▸ PSR	REMOVE	172 - 217	DOWNLOAD

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APPEAL_APPEAL_NAT,CLOSED

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (McAllen)
CRIMINAL DOCKET FOR CASE #: 7:22-cr-01627-1
Internal Use Only**

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

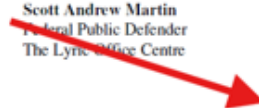
Defendant (1)

Defendant: Sergio Luna-Soto
TERMINATED: 01/17/2024

represented by **Juan Jose Becerra**
Federal Public Defender
1701 W Hwy 83
Ste 405
McAllen, TX 78501
956-630-2995
Fax: 956-631-8647
Email: Juan_J_Becerra@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or Community
Defender Appointment

Marjorie A Meyers
Federal Public Defender
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Suite 1350
Houston, TX 77002
713-718-4600
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or Community
Defender Appointment

Scott Andrew Martin
Federal Public Defender
The Lyric Office Centre

 25-50023.1

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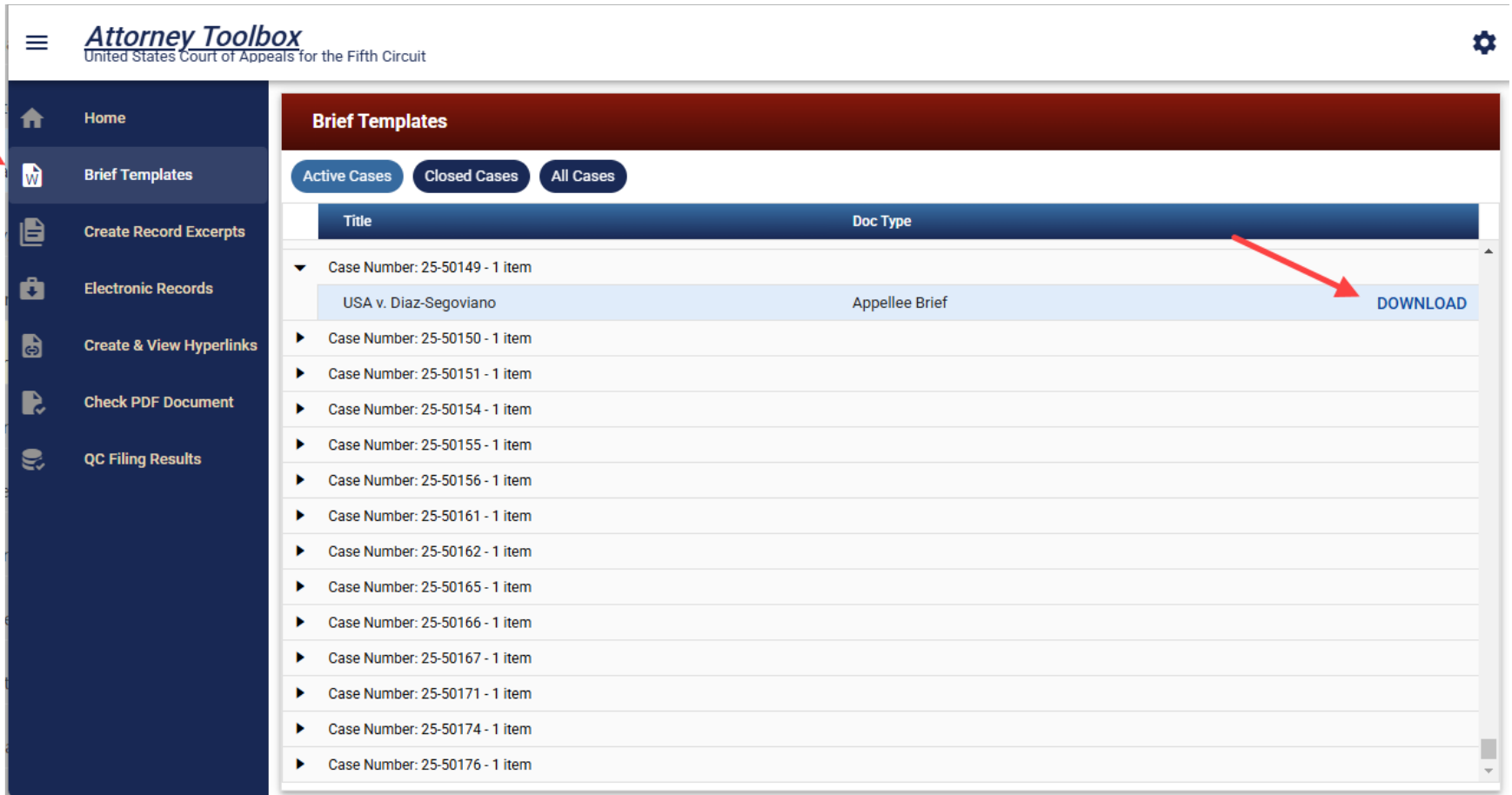
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DOWNLOADING YOUR TEMPLATE



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Title	Doc Type
▼ Case Number: 25-50149 - 1 item	
USA v. Diaz-Segoviano	Appellee Brief
▶ Case Number: 25-50150 - 1 item	
▶ Case Number: 25-50151 - 1 item	
▶ Case Number: 25-50154 - 1 item	
▶ Case Number: 25-50155 - 1 item	
▶ Case Number: 25-50156 - 1 item	
▶ Case Number: 25-50161 - 1 item	
▶ Case Number: 25-50162 - 1 item	
▶ Case Number: 25-50165 - 1 item	
▶ Case Number: 25-50166 - 1 item	
▶ Case Number: 25-50167 - 1 item	
▶ Case Number: 25-50171 - 1 item	
▶ Case Number: 25-50174 - 1 item	
▶ Case Number: 25-50176 - 1 item	

BRIEF TEMPLATES

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CERTIFICATE OF INTERESTED PERSONS

STATEMENT REGARDING ORAL ARGUMENT

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STATEMENT OF THE CASE

SUMMARY OF THE ARGUMENT

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CONCLUSION

CERTIFICATE OF SERVICE

CERTIFICATE OF COMPLIANCE

No. 25-50149

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States of America,

Plaintiff - Appellee

v.

Juan Martin Diaz-Segoviano,

Defendant - Appellant

On Appeal
United States District Court for
the Southern District of Texas
4:24-CR-00123

BRIEF OF APPELLEE UNIT

SUE

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

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).

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 if required by FED. R. APP. P. 32(g)(1), and 5th CIR. R. 32.3, and FED. R. APP. P. 28(a)(10).


5


21


CREATE RECORD EXCERPTS REQUIRED BY LOCAL RULE 30


 **Attorney Toolbox**
United States Court of Appeals for the Fifth Circuit

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 Brief Templates

 **Create Record Excerpts**

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 QC Filing Results

Record Excerpts Due

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

Case Number	Title		Due Date
24-50883	USA v. Terry	CREATE	Apr 16, 2025
24-50914	USA v. Garza-Gomez	CREATE	Apr 23, 2025
24-50915	USA v. Rubio	CREATE	Apr 1, 2025
24-50925	USA v. Davalos	CREATE	Mar 20, 2025
24-50930	USA v. Jackson	CREATE	Mar 24, 2025
24-50931	USA v. Fuentes	CREATE	Apr 30, 2025
24-50932	USA v. Fuentes	CREATE	Apr 30, 2025
24-51032	USA v. Roberts	CREATE	Apr 15, 2025
25-50001	USA v. Varela-Angel	CREATE	Apr 21, 2025
25-50011	USA v. Menchaca-Segura	CREATE	Mar 24, 2025

SELECT THE APPEAL REQUIRING
RECORD EXCERPTS

Attorney Toolbox
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Create Record Excerpts for 25-50011

1. 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 DEFENSE	10	22	<input type="checkbox"/>	ADD
BRADY ORDER	11	23	<input type="checkbox"/>	ADD
SCHEDULING ORDER/WAIVER	13	24 - 27	<input type="checkbox"/>	ADD

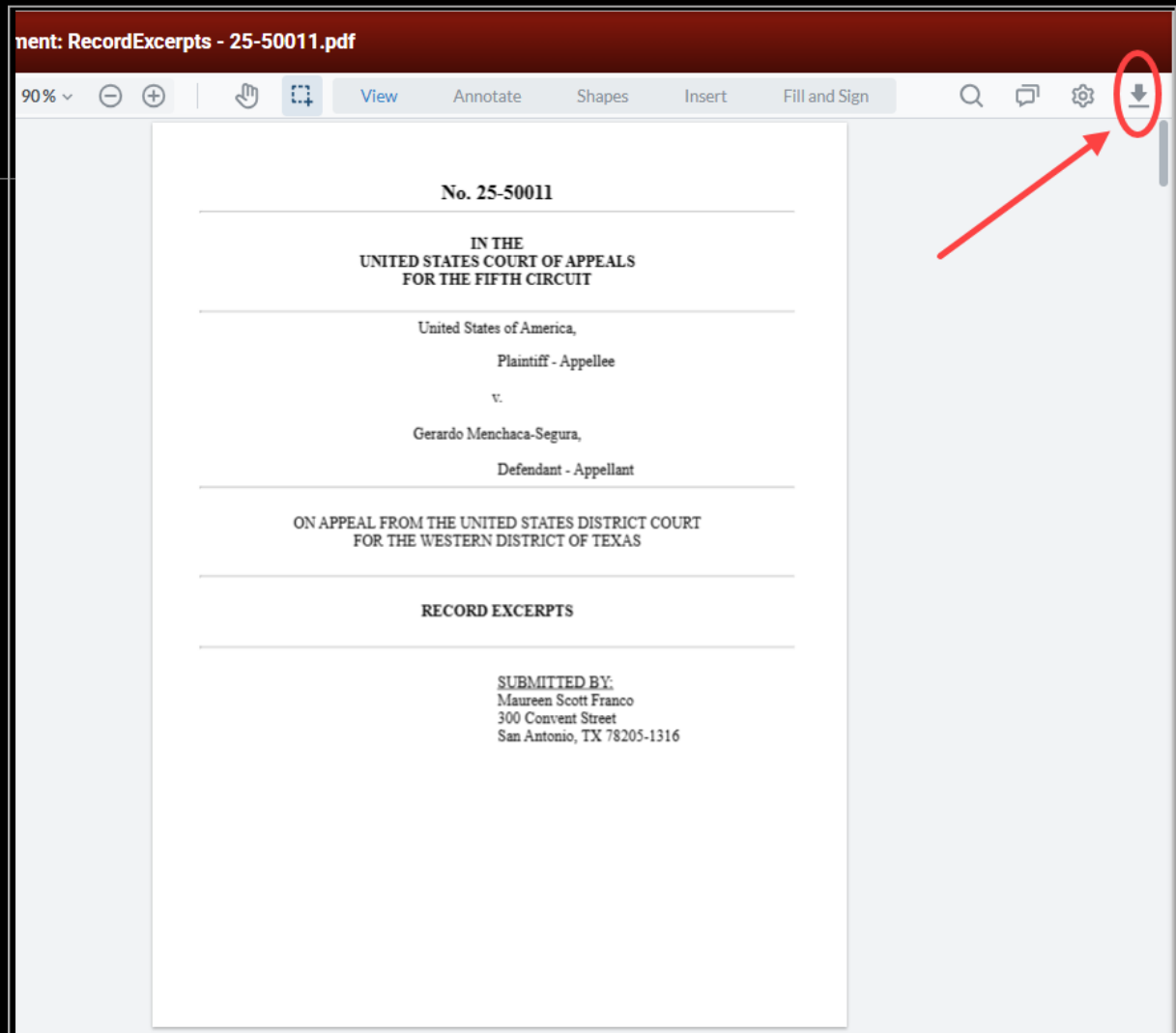
PREVIOUS NEXT

1. VERIFY PRE-SELECTED DOCUMENTS.

2. ADD OPTIONAL CONTENT.

3. FINALIZE AND DOWNLOAD.

**When review
is complete,
download
and save for
filing.**



THE PDF
COMPLIES
WITH
LOCAL
RULES.

No. 25-50011

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States of America,

Plaintiff - Appellee

v.

Gerardo Menchaca-Segura,

Defendant - Appellant

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

RECORD EXCERPTS

SUBMITTED BY:

Maureen Scott Franco
300 Convent Street
San Antonio, TX 78205-1316

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 includes all required sections, such as the Table of Contents

PDF EVEN
INSERTS A
NUMBERED TAB
PAGE BETWEEN
SECTIONS
(REQUIRED IF
YOU ARE LATER
INSTRUCTED TO
SUBMIT PAPER
EXCERPTS).

TAB 1

EXCERPTS
INCLUDE THE
PROPER
EROA
PAGINATION

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA

v.

Gerardo Menchaca-Segura

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EP-24-CR-02159-DB

NOTICE OF APPEAL

Comes now, GERARDO MENCHACA-SEGURA, by and through his undersigned attorney, and hereby gives notice of appeal to the United States Court of Appeals for the Fifth Circuit from the Judgment in the Criminal Case and the Sentence entered on December 19, 2024.

Respectfully submitted,

MAUREEN SCOTT FRANCO
Federal Public Defender

/s/

REGINALDO TREJO JR.
Supervisory Assistant Federal Public
Defender
Western District of Texas
Richard C. White Federal Building
700 E. San Antonio Street, Suite D-401
El Paso, Texas 79901

Attorney for Defendant



25-50011.45

PROGRAM
INCLUDES A
CERTIFICATE
OF SERVICE
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DATE YOU
PROVIDE.

Certificate of Service

I certify that on March 11, 2025, the foregoing document was served, via the Court's CM/ECF Document Filing System, upon all counsel of record.

S/Maureen Scott Franco
Maureen Scott Franco

QUALITY CONTROL (QC) SCAN To AVOID REJECTED FILINGS

A QC program scans briefs at filing to ensure compliance with FRAP and Local Rules.
Toolbox permits you to use the same program to scan a draft brief **before** filing.

Each scan generates a pop-up message showing “Critical” and “Minor” errors.
We do not reject a pleading for Minor errors.

Attorneys can file the brief without correcting errors, but:

When the scan finds critical errors, we probably will later reject it and require the attorney to file a corrected copy.

A deputy clerk reviews the QC results and decides whether the brief should be rejected. There is no automatic rejection.

QC DRAFT PLEADING CHECK WITH THE ATTORNEY TOOLBOX

The screenshot shows the Attorney Toolbox website for the United States Court of Appeals for the Fifth Circuit. The left sidebar contains a menu with the following items: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. The 'Check PDF Document' item is highlighted with a red arrow. The main content area has a dark red header with the text 'Upload PDF to Check for Compliance With Rules'. Below this, a red instruction reads 'Select the document type to test for compliance with rules.' There are three buttons: 'Appellants Brief' (highlighted with a red arrow), 'Appellees Brief', and 'Reply Brief'. Another red instruction reads 'Enter the case number for testing or leave blank for the system to automatically retrieve it from the document.' Below this is a text input field containing '25-40036' and a 'RESET' button. A final red instruction reads '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."' Below this is a 'BROWSE...' button and a text area labeled 'Or drop files here', with a red arrow pointing to the text area.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Home
Brief Templates
Create Record Excerpts
Electronic Records
Create & View Hyperlinks
Check PDF Document

Upload PDF to Check for Compliance With Rules

Select the document type to test for compliance with rules.

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
25-40036 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

Deficiency Check Results

A computer program scanning this brief for compliance with FRAP and local rule requirements has identified critical issues that might require rejection of the brief. Those issues are listed below, with any minor deficiency we found. Briefs will not be rejected for minor errors.

You are not required to correct the brief before filing. If you decide to docket without correction, simply click [Done] in the lower right corner of this page.

However, to avoid possible rejection and having to file a corrected document later, please consider addressing the critical deficiencies and uploading a corrected brief now.

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

Note: The program may mistakenly report a deficiency when none exists, such as when it does not find a close or identical match for required contents or sections, or when graphics, text or characters confuse the engine. Please help us improve this program by letting us know if the program incorrectly identifies a deficiency in your brief by emailing us at Margaret_Dufour@ca5.uscourts.gov.

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

- The Appeal Number on the title page is incorrect. The correct case number is 25-40036. See FED. R. APP. P. 32(a)(2)(A). [\(Show Details\)](#)
- The brief exceeds the word count limitation and/or the page limitations. See FED. R. APP. P. 32(a)(7). You must reduce the size of the brief or electronically file a motion for leave to exceed the word count limitation and/or the page limitations.
- The program is unable to determine if the Certificate of Compliance complies with FED. R. APP. P. 32(g). The certificate must state the number of words or the number of lines of monospaced type that are included in the argument. If either of these are included, please disregard this notice.
- Record References: Every assertion in briefs regarding matters in the record must be supported by a reference to the page number of the record, using the record citation form as directed by the Clerk of Court. This pleading cites to pages that do not exist in the record or the citations do not match the required format. The proper format for citations to a single record appeal is "ROA, page number. (For example, ROA.123.) For multi record appeals, the format is ROA.case number.page number. (For example ROA.18-20668.123.) Note the hyphen is required when you cite the case number. Finally, "id" is not permitted when citing to the record on appeal. See FED. R. APP. P. 28(a)(8)(A) and 5th CIR. R. 28.2.2. See [Form 1](#).

The record citations must be in the correct form or the brief will be rejected.

- PDF page 2: contains an invalid citation, roa.182-184; 188. [\(Show Details\)](#)

2. Minor deficiencies we call to your attention:

- There may be a problem with the signature following the Certificate of Service required by FED. R. APP. P. 25(d)(1)(B). The signature is either missing or does not match the name of the attorney whose credentials were used for log-in. The filing attorney's name should be typed on the line where the attorney would normally sign, preceded by an "s/". An image of the signature is not allowed. Based upon a comparison of the log-in credentials and information in court records, the expected signature is: s/Demetrius Tarver.

Clicking on the blue link “[Show Details](#)” displays the error in the pleading.

Here, the critical error was an incorrect case number.

The correct number was 25-40036.

In the
United States Court of Appeals
for the Fifth Circuit

No. 25-40035

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

DEMARIO D. HENDERSON,
Defendant - Appellant

Appeal from the United States District Court
For the Western District of Louisiana
USDC No. 5:24-CR-19-1

ORIGINAL BRIEF FOR THE APPELLANT
DEMARIO D. HENDERSON

- The brief exceeds the word count limitation and/or the page limitations. See FED. R. APP. P. 32(a)(7)). You must reduce the size of the brief or electronically file a motion for leave to exceed the word count limitation and/or the page limitations.
- The program is unable to determine if the **Certificate of Compliance** complies with FED. R. APP. P. 32(g). The certificate must state the number of words or the number of lines of monospaced type that are included in the argument. If either of these are included, please disregard this notice.

THE SCAN FOUND TWO OTHER CRITICAL ERRORS BUT DID NOT INCLUDE HYPERLINKS BECAUSE THE NATURE OF THE ERRORS COULD NOT BE EXPLAINED BY A LINK TO A PARTICULAR PAGE.

The last critical error involved an incorrect ROA cite -- using a semicolon instead of a comma.

This error seems trivial, but it would prevent our hyperlinking program from accurately linking to the cited page.

STATEMENT OF THE CASE

The appellant Demario D. Henderson was charged below with one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). ROA.8. This case arose when Henderson stole a firearm from a convenience store clerk on July 22, 2023. ROA.167. At the time Henderson possessed the stolen firearm, he had numerous prior felony convictions for aggravated criminal damage to property, possession of a firearm by a convicted felon, possession or introduction of contraband into a penal institution, and resisting a police officer with force or violence. ROA.182-184; 188.

THE MINOR DEFICIENCY IDENTIFIES A POSSIBLE ERROR WITH THE SIGNATURE ON THE CERTIFICATE OF SERVICE

2. Minor deficiencies we call to your attention:

- There may be a problem with the signature following the Certificate of Service required by FED. R. APP. P. 25(d)(1)(B). The signature is either missing or does not match the name of the attorney whose credentials were used for log-in. The filing attorney's name should be typed on the line where the attorney would normally sign, preceded by an "s/". An image of the signature is not allowed. Based upon a comparison of the log-in credentials and information in court records, the expected signature is: s/Demetrius Tarver.

ABOUT THE QC RESULTS...

At docketing, if you are filing on the last day, 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 QC program or process.

BRIEFCASE HYPERLINK FEATURE

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

Select a search engine if you hyperlinks to legal authority. Westlaw, Lexis, and several free engines are supported.

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

The program creates the hyperlinks. View the links or save the document to your computer.

The hyperlink program is the same one used by judges and court staff. You will see what they see.

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

The screenshot displays the Attorney Toolbox interface for the United States Court of Appeals for the Fifth Circuit. The left sidebar contains navigation links: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. The main content area is titled "Upload PDF to Check ROA Citations" and instructs users to select a search engine (Westlaw Next, Lexis, Google Scholar, Bing, Yahoo, or None) and upload a PDF file. A "BROWSE..." button and a "Or drop files here" instruction are present. A red arrow points from a Windows File Explorer window to the "Or drop files here" area. The File Explorer window shows the "Downloads" folder with a file named "25-40036.pdf" (147 KB) dated 3/7/2025 3:06 PM. A red box highlights the PDF icon in the File Explorer, and a red arrow points from it to the "Or drop files here" area. A small PDF icon with a "+ Copy" button is also visible in the main content area.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Upload PDF to Check ROA Citations

Select your desired search engine. Please note that for Westlaw and Lexis you must have an account, the system does not authenticate for you.

Westlaw Next Lexis Google Scholar Bing Yahoo **None**

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

PDF + Copy

File Explorer: This PC > Downloads

Name	Date modified	Type	Size
Last month (1)			
25-40036.pdf	3/7/2025 3:06 PM	Adobe Acr...	147 KB

BRIEF HYPERLINKS DISPLAY PAGES IN THE RECORD

box
FOR THE FIFTH CIRCUIT

View Document: 25-40036_preview.pdf

100% View Annotate Shapes Insert Fill and Sign

ARGUMENT

II. FORECLOSED - 18 U.S.C. § 922(g)(1) *facially* violates the Second Amendment because firearm possession is protected by the plain text of the Amendment, and the government cannot show a historical tradition of categorically disarming felons

A. Standard of review

Henderson challenged the constitutionality of § 922(g)(1) below.

ROA.14 Although Henderson pled guilty, the guilty plea was conditional, and the government agreed in the plea agreement that:

The United States also acknowledges that this is a conditional plea, pursuant to Federal Rule of Criminal Procedure 11(a)(2), and that the defendant reserves his right to appeal the Court's adverse ruling as to his Motion to Dismiss and, should such appeal be successful, the defendant shall be allowed to withdraw his guilty plea.

ROA.160 Nevertheless, a guilty plea does not bar a criminal defendant from later appealing his conviction on the ground that the statute of conviction violates the Constitution. *Class v. United States*, 583 U.S. 174 (2018). The Court reviews constitutional challenges to a statute *de novo*. *United States v. Clark*, 582 F.3d 607, 612 (5th Cir. 2009).

ROA: 25-40036.14

100% View Annotate Shapes Insert Fill and Sign

DEFENDANT'S MOTION TO DISMISS COUNT 1 OF THE INDICTMENT AND INCORPORATED MEMORANDUM IN SUPPORT

NOW INTO COURT comes the defendant, DEMARIO D. HENDERSON, through undersigned counsel, who respectfully moves this Court to dismiss the Indictment under Fed. R. Crim. P. 12(b)(1), 12(b)(2) and 12(b)(3)(B)(v).

I. The Basis of the Motion.

Count 1 of the indictment charges the defendant with being a felon in possession of a firearm on July 22, 2023. The defendant brings this motion to raise two separate grounds for dismissing the indictment in this case. His first claim is grounded in the plain text of the Second Amendment. It asserts that the statutory prohibition set forth in § 922(g)(1) violates the Second Amendment's guarantee-of "the right of the people to keep and bear Arms."

The defendant's second claim is grounded in Congress' lack of power to criminalize conduct relating to the possession of firearms which have already traveled in interstate commerce, but are no longer doing so. It asserts that § 922(g)(1)'s prohibition against felons possessing firearms is not supported by any enumerated power granted to Congress in the Constitution and

1 **25-40036.14**

HYPERLINKS CAVEATS

An attorney can view hyperlinks 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.

When the document is saved, 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 required to log-in to that service to access hyperlinks to legal authority.

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

BEST PRACTICES: USING HYPERLINKS

1) Drag a PDF of a draft brief into the program to verify your ROA cites point to the pages you intended.

1



2) Review an opponent's brief. Drag the PDF of the opposition brief into the program to view their ROA and legal citations.

2



3) Prepare for Oral Argument: Easily review legal and EROA citations in all pleadings.

PRACTICE TIPS:

HOW TO AVOID THE MOST COMMON MISTAKES!

Use the correct relief when filing a document. (Searchable list on court ECF Page). (AI will soon help here!)

Use our exact caption.

File a Transcript Order Form (it is required to be filed in both District Court and our court -- even if you don't need transcripts).

Cite to the record following Local Rule 28.2.2 format (ROA.123). Record cites are required.

Don't wait until the last minute to ask for extension. Provide justification and indicate whether the opposing counsel objects.

When requesting more than a 30-day extension, comply with local rule 31.4.3 (show more than ordinary good cause, demonstrate diligence and substantial need and explain IN DETAIL what special circumstances exist).

Avoid asking for extension for a reply or a rehearing petition. Rule 31.4.4 greatly disfavors extensions for reply briefs and Rule 35.4 says extensions for rehearing are only for "the most compelling reasons."

PRACTICE TIPS:

AVOID THESE OTHER COMMON MISTAKES!

Don't wait till the last minute to verify active status in court bar and file an appearance form.

Don't refile a document incorrectly filed. Please call us first.

Protect sealed matters. Use the Event "ECF Motion and/or Document Filed Under Temporary Seal."

Comply with 5th Cir. R. 27.3 when filing 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.)

File record excerpts as a separate event, not with a brief.

A MOST IMPORTANT PRACTICE TIP: DON'T FORGET TO RENEW BAR MEMBERSHIP

FINAL NOTICE: 5TH CIRCUIT BAR MEMBERSHIP RENEWAL DUE



CA05db_BarRenewals

Mon 3/10/2025 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.

Keep your email address up to date! If you miss the notice, you may have to reapply and pay an admission fee, not a renewal fee. (\$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 1.6 Months



From Notice of Appeal to Final disposition is 8.3 months



The median time from Notice of Appeal to final disposition in oral argument cases is 12.3 Months.

MORE THINGS TO KNOW: HOW THE COURT CREATES PANELS AND ASSIGNS CASES

The court uses a computer program to create administrative, screening, and OA panels each year.

The program randomly assign judges to panels and tries to avoid duplicating panel compositions for the same or the past few years.

When active judges are unavailable to serve on panels, the Chief Judge can approve other judges sitting by designation. (Normally 2-3 visiting judges each year).

Every case assignment to the court's panels (Administrative, Screening, or Oral Argument) is random.

A computer program randomly assigns cases to OA panels, subject to two exceptions. First, the program ensures that each panel serving in a given month receives approximately the same number of criminal and civil appeals; and second, that no case is assigned to a recused judge.

Screening and administrative panel assignments follow a rotation pattern established before the court year begins. Strictly following this rotation for assignment ensures both equitable work distribution and random assignment.

HOW MUCH DOES THE COMPOSITION OF A PANEL MATTER?



What is the impact of randomly assigning matters to randomly created panels?



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



Conclusion: facts and precedent matter more than composition of a panel in the overwhelming majority of appeals.

PANEL CONCURRENCES AND DISSENTS

5th CIRCUIT OPINION CONCURRENCE AND DISSENT RATES THREE JUDGE PANELS

For the 12 Month Period Ending June 30, 2025

Number of Panel Opinions	2369		% of Panel Opinions
Number of Panel Opinions without Dissent	2255		95.2%
Number of Panel Opinions with Separate Dissents or Concurrences	114		4.8%
Panel Opinions with a Dissenting Opinion		48	2.0%
Panel Opinions with Concurring and Dissenting in part Opinions		20	0.8%

Other Things You Need to Know:

What is an Appellant's Chance of Reversal?

For the 12-month period ending March 31, 2025, the court reversed 7.7% of appeals, up from 6.8% during the prior 12-month period. This was the sixth lowest reversal rate for all appellate courts.

- 3.5% of criminal appeals
- 23.0% of non-prisoner “U.S. Civil Cases”
- 14.7% 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 2025 report was posted September 15, 2025.

► **Clerk's Annual Report, July 2024 to June 2025**

► https://www.ca5.uscourts.gov/docs/default-source/default-document-library/clerk's-annual-report-july-2024-to-june-2025.pdf?sfvrsn=44b3ce2d_1



*UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT*

CLERK'S ANNUAL REPORT
JULY 2024 - JUNE 2025

SOME INTERESTING FACTS ABOUT THE COURT'S WORKLOAD

We are the second busiest appellate court in two categories. For total new appeals filed, we were second only to the 9th Cir. For filings adjusted for complexity, our active judges each handled 660 filings – second only to the 11th Cir where judges handled 678 adjusted filings.

We issued 2,381 written opinions last year. Each active judge wrote approximately 100 opinions.

The court's workload included emergency and expedited appeals. We handled 90 such appeals in 2025, compared to 133 the previous year.

Amicus filings significantly added to the workload. We received 380 amicus briefs in 2024, and 356 in 2025.

JULY 1, 2024, TO JUNE 30, 2025

	Cases Commenced	Procedural Terminations	Total Merits Terminations	Merits Terminations After Oral Hearing	Merits Terminations on Briefs	% Placed on the Oral Argument Calendar	% Reversed
Criminal	2,032	481	1,593	225	1,189	14.1	3.5
U.S. Prisoner Petitions	281	140	139	8	115	5.8	1.6
Other U.S. Civil	306	163	160	76	51	47.5	22.0
Private Prisoner Petitions	638	360	315	47	222	14.9	6.3
Other Private Civil	1,320	553	712	407	177	57.2	15.4
Bankruptcy	53	14	58	33	12	56.9	22.2
Administrative Agency	398	141	211	56	109	26.5	9.1
Original Proceedings*	417	141	243	0	232	0.0	0.0
Miscellaneous	36	3	35	0	33	0.0	0.0
TOTAL	5,481	1,996	3,466	852	2,140	24.6	7.7
Louisiana	813	296	535	173	199	32.3%	7.7%
Mississippi	332	96	209	74	70	35.4%	11.0%
Texas	3,849	1,322	2,268	563	1,052	24.8%	6.1%
	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	444	1,947	199	9	221	7	
Louisiana	76	314	37	1	49	1	
Mississippi	43	106	14	0	17	0	
Texas	291	1,404	131	6	136	6	

*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 July 2024 - June 2025, Judges held the mandate in 58 cases.

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

A poll was requested in 16 of these cases.

In 9 of these 16 polls, the court denied en banc but granted in 7 cases.

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.

SUMMARY CALENDAR VS OA CALENDAR

1397 opinions
issued on the
summary calendar
(on briefs).

815 cases were
placed on the oral
argument
calendar.

302 cases were
actually argued.

OPINION TRIVIA

HOW OFTEN DO PANELS WITHDRAW AND REISSUE OPINIONS? AND WHEN THEY DID SO, HAD A JUDGE HELD THE MANDATE?

During calendar year 2024, panels withdrew and reissued 26 modified opinions.

In 13 of those instances, a judge on the court had held the mandate.

In the first six months of calendar year 2025, panels withdrew and reissued 9 opinions.

In 5 of those instances, a judge on the court had held the mandate.

OPINION TRIVIA: HOW OFTEN DOES THE COURT CERTIFY QUESTIONS TO A STATE COURT?

When the court faces unresolved issues of state law, it can make an “Erie guess” or certify the question to the state supreme court, giving states the 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 (23), than Louisiana (9), or Mississippi (2).

DO PARTIES CORRECTLY IDENTIFY CASES WORTHY OF CERTIFICATION?

In 28 appeals, one or both parties asked the court to certify a question to a state supreme court. The court certified in only 6 of those appeals. (21.43% success rate.)



The court sua sponte certified questions in 28 other appeals, where neither party requested certification. (0% success rate?)



What prevented parties from correctly identifying when issues warranted certification?



SOME ADDITIONAL OBSERVATIONS REGARDING CERTIFIED QUESTIONS

A state supreme court decides, in its discretion, whether to accept certified questions.

Texas and Mississippi accepted all certifications, but Louisiana accepted only 6 of the 9 questions certified to that court.

In 3 appeals where the court sua sponte certified, the parties settled the case before the state court responded. (Perhaps the parties didn't want to see what the state court would do.)

FIFTH CIRCUIT MEDIATION PROGRAM

Office of Chief Counsel and Mediation. 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.

HOW TO GET APPELLATE EXPERIENCE? ASK TO SERVE IN OUR PRO BONO PROGRAM

Office of the General Counsel and Mediation 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.

ONGOING AI EXPERIMENTS

1. Docketing: AI scans and identifies type of document uploaded to simplify attorney filing
2. Motion review: AI summarizes key issues in motions to speed review
3. AI summaries of pro se pleadings help determine proper processing decisions
4. Conflict Screening
5. Jury Transcript Analysis and Summarizing ROA contents
6. AI summary of OA cases and summaries of each brief
7. AI verifies accuracy of brief assertions regarding the record on appeal
8. Internal Court AI chatbot to help staff find authority/rules, etc.
9. AI chatbot on public website

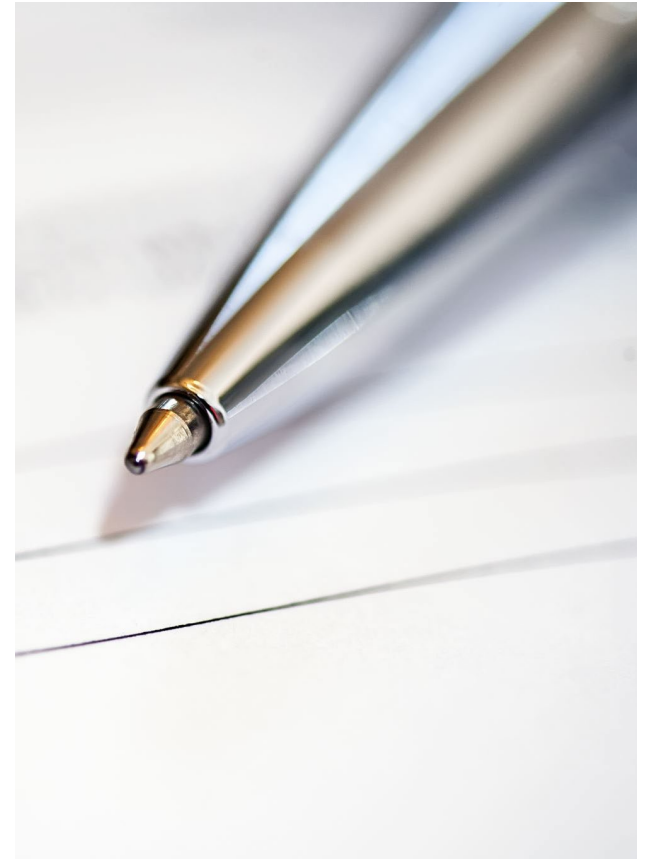
CLOSING THOUGHTS

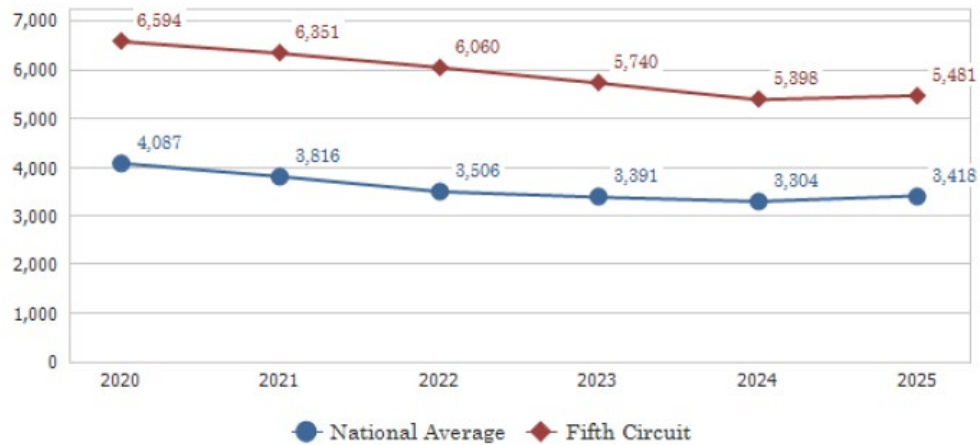
Clerk staff take pride in our reputation as an attorney friendly court.

We strive to develop innovative processes and tools to help attorneys comply with procedural and technical pleading requirements, so attorneys can focus on the substantive legal issues in appeals.

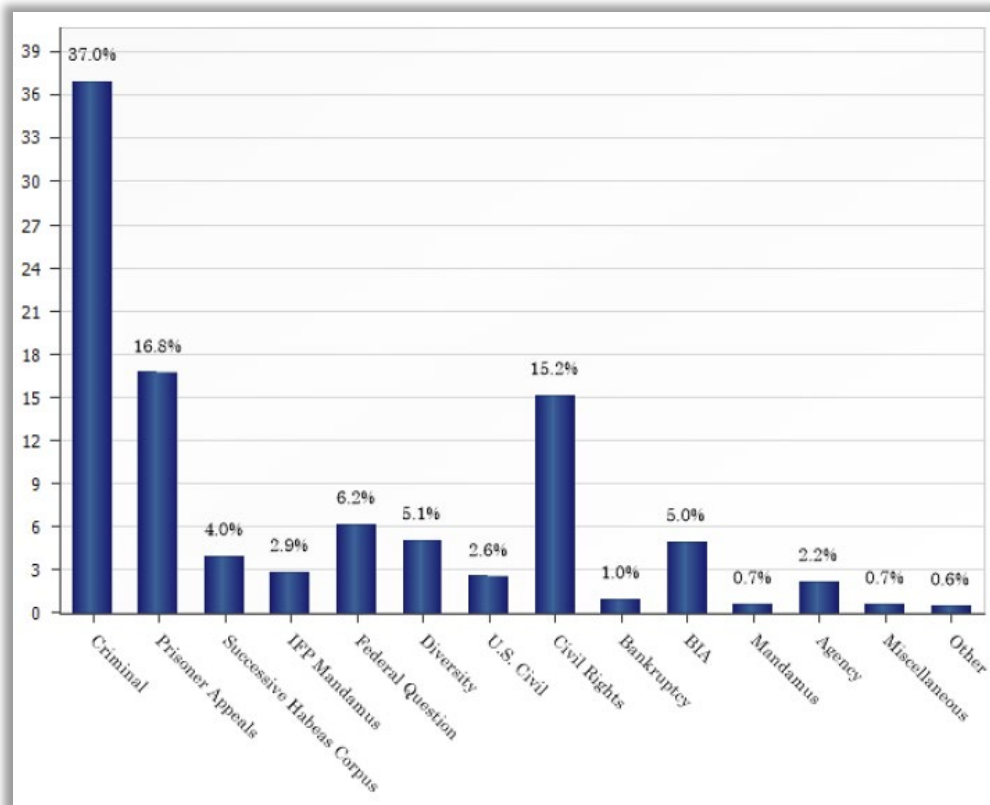
Our goal is to make litigating in our court easier and less stressful, and to provide Platinum Service.

Help us achieve that goal by giving feedback on all aspects of our operations.





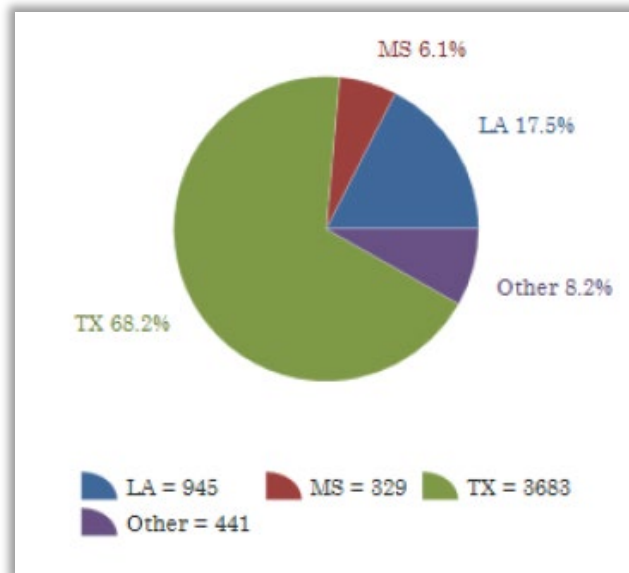
NEW APPEALS FILED



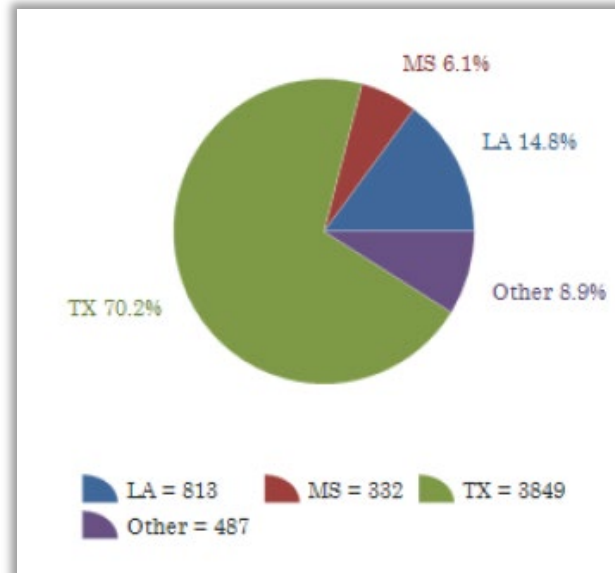
NEW APPEALS BY CASE TYPE

APPEALS BY STATE

2024 NEW APPEALS

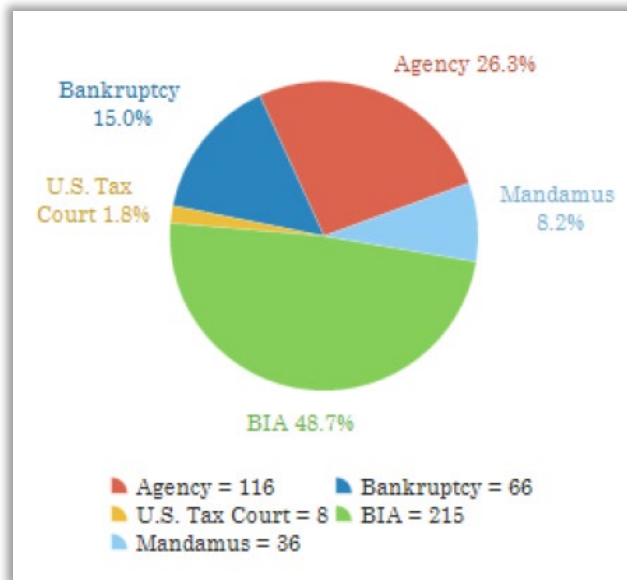


2025 NEW APPEALS

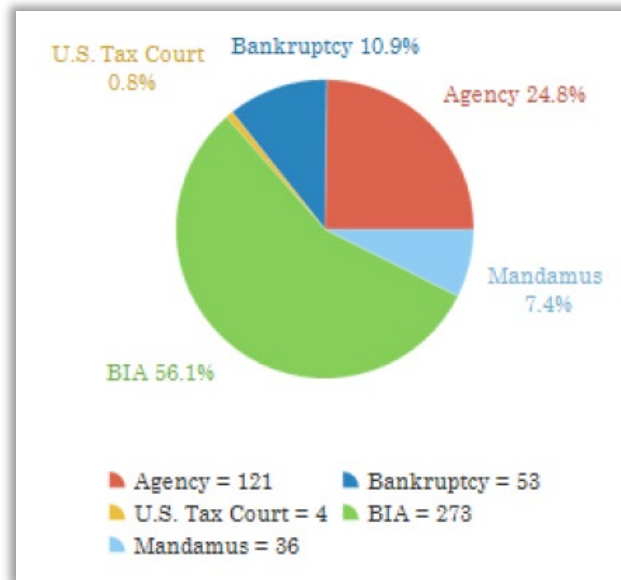


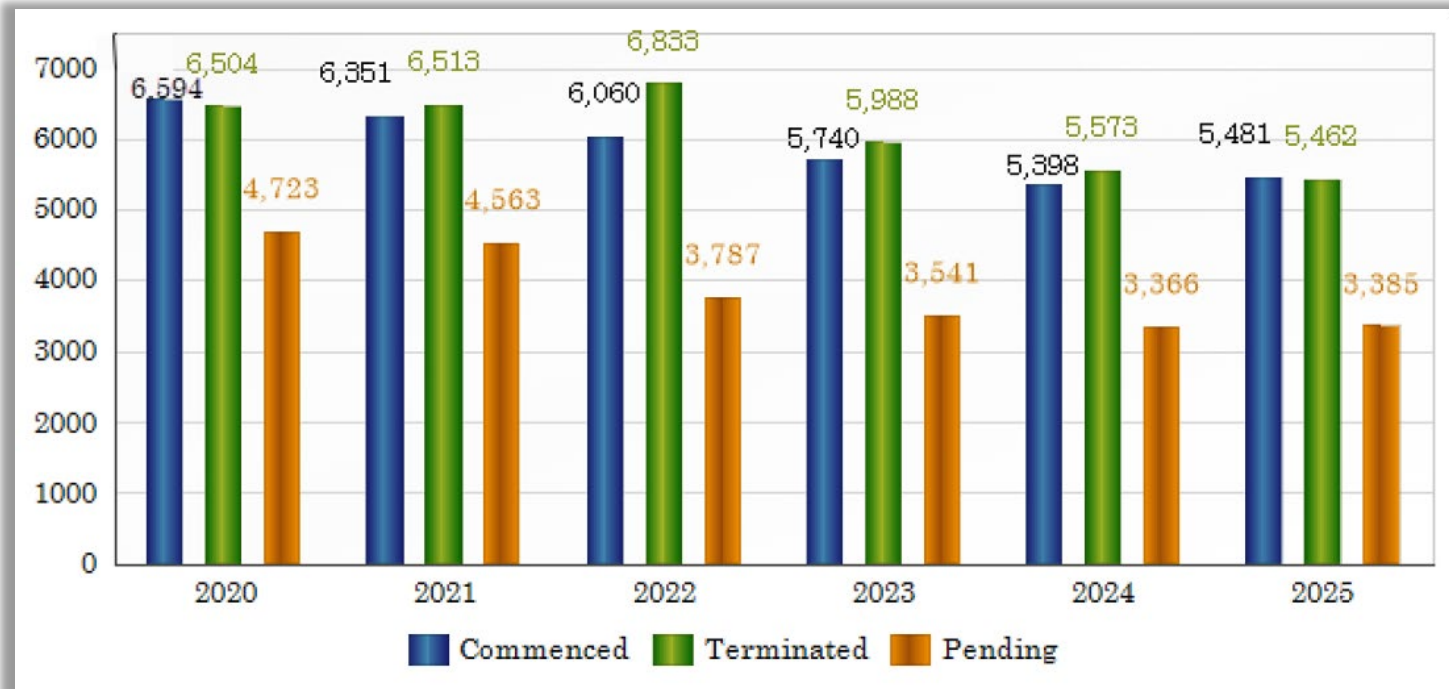
OTHER APPEALS BY SOURCE

2024 OTHER APPEALS

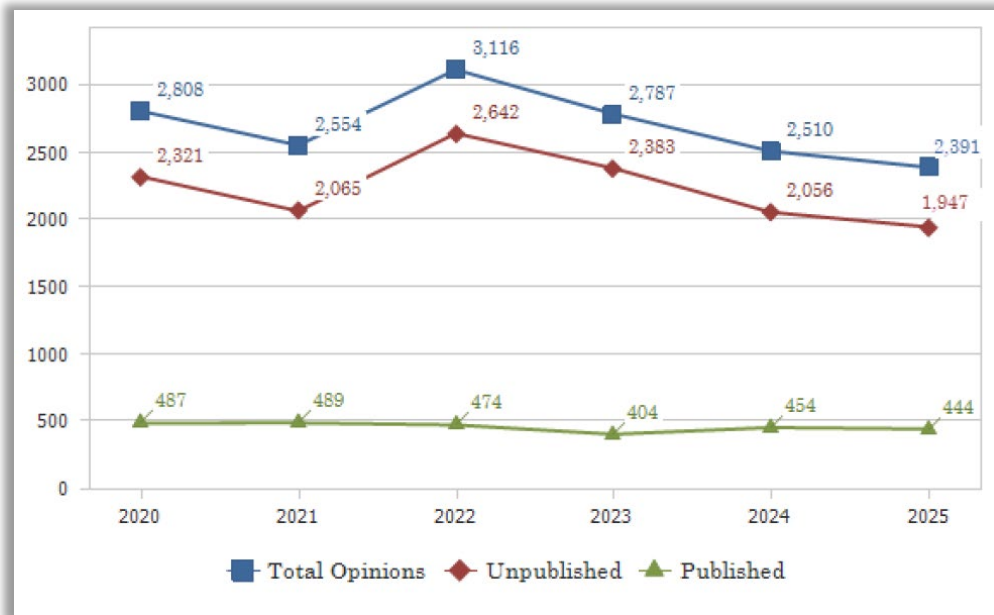


2025 OTHER APPEALS



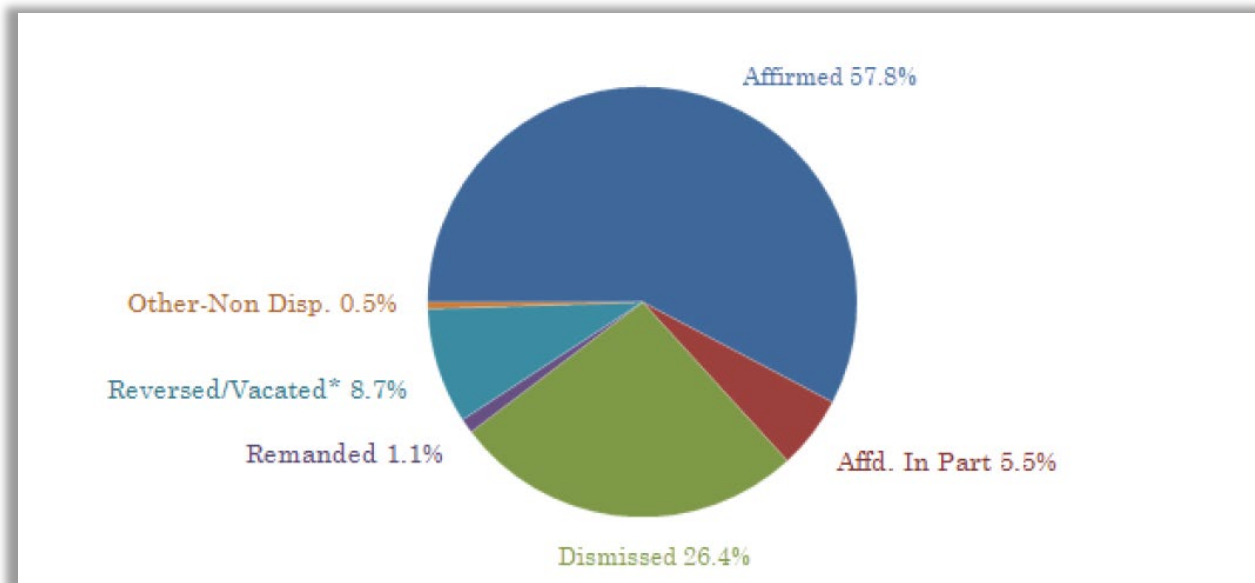


SUMMARY OF APPEALS COMMENCED, TERMINATED AND PENDING



NUMBER OF PUBLISHED AND UNPUBLISHED OPINIONS

REVERSAL RATE



REVERSAL RATE BY CASE TYPE

Case Type	Decision Type	2022		2023		2024		2025	
		No.	%	No.	%	No.	%	No.	%
Criminal	Affirmed/Affd. In Part	841	54.20%	754	54.56%	713	53.60%	752	56.93%
	Dismissed	630	40.59%	568	41.10%	580	43.61%	513	38.83%
	Reversed/Vacated/Remanded	80	5.15%	57	4.12%	36	2.71%	56	4.24%
	Transferred/Other-Non Disp.	1	0.06%	3	0.22%	1	0.08%	0	0.00%
	Total Cases	1,552		1,382		1,330		1,321	
Prisoner Appeals	Affirmed/Affd. In Part	215	55.27%	176	57.33%	140	64.52%	100	61.36%
	Dismissed	135	34.70%	95	30.94%	51	23.50%	43	26.38%
	Reversed/Vacated/Remanded	39	10.03%	35	11.40%	23	10.60%	18	11.04%
	Transferred/Other-Non Disp.	0	0.00%	1	0.33%	3	1.38%	2	1.22%
	Total Cases	389		307		217		163	
Federal Question	Affirmed/Affd. In Part	119	71.69%	115	73.25%	103	73.05%	96	71.11%
	Dismissed	8	4.82%	12	7.64%	7	4.96%	9	6.67%
	Reversed/Vacated/Remanded	35	21.08%	29	18.47%	31	21.99%	30	22.22%
	Transferred/Other-Non Disp.	4	2.41%	1	0.64%	0	0.00%	0	0.00%
	Total Cases	166		157		141		135	
Diversity	Affirmed/Affd. In Part	152	74.88%	128	80.50%	136	74.73%	121	72.02%
	Dismissed	13	6.40%	8	5.03%	5	2.75%	11	6.55%
	Reversed/Vacated/Remanded	32	15.76%	20	12.58%	31	17.03%	31	18.45%
	Transferred/Other-Non Disp.	6	2.96%	3	1.89%	10	5.49%	5	2.98%
	Total Cases	203		159		182		168	
U.S. Civil	Affirmed/Affd. In Part	45	68.17%	40	63.49%	34	56.67%	39	55.71%
	Dismissed	5	7.58%	6	9.52%	10	16.67%	7	10.00%
	Reversed/Vacated/Remanded	13	19.70%	16	25.40%	14	23.33%	22	31.43%
	Transferred/Other-Non Disp.	3	4.55%	1	1.59%	2	3.33%	2	2.86%
	Total Cases	66		63		60		70	
Tax Court	Affirmed/Affd. In Part	5	100.00%	2	50.00%	2	100.00%	4	100.00%
	Dismissed	0	0.00%	2	50.00%	0	0.00%	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	5		4		2		4	

REVERSAL RATE BY CASE TYPE

Case Type	Decision Type	2022		2023		2024		2025	
		No.	%	No.	%	No.	%	No.	%
Civil Rights	Affirmed/Affd. In Part	180	74.07%	206	74.63%	242	74.01%	234	75.01%
	Dismissed	16	6.58%	21	7.61%	30	9.17%	27	8.65%
	Reversed/Vacated/Remanded	43	17.70%	46	16.67%	54	16.51%	46	14.74%
	Transferred/Other-Non Disp.	4	1.65%	3	1.09%	1	0.31%	5	1.60%
	Total Cases	243		276		327		312	
Bankruptcy	Affirmed/Affd. In Part	21	44.67%	28	82.36%	26	74.28%	26	59.09%
	Dismissed	19	40.43%	3	8.82%	1	2.86%	7	15.91%
	Reversed/Vacated/Remanded	6	12.77%	3	8.82%	8	22.86%	11	25.00%
	Transferred/Other-Non Disp.	1	2.13%	0	0.00%	0	0.00%	0	0.00%
	Total Cases	47		34		35		44	
Social Security	Affirmed/Affd. In Part	9	90.00%	12	100.00%	9	100.00%	9	100.00%
	Dismissed	0	0.00%	0	0.00%	0	0.00%	0	0.00%
	Reversed/Vacated/Remanded	1	10.00%	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	10		12		9		9	
BIA	Affirmed/Affd. In Part	350	88.38%	305	86.65%	129	89.59%	116	88.55%
	Dismissed	19	4.80%	34	9.66%	10	6.94%	9	6.87%
	Reversed/Vacated/Remanded	23	5.81%	13	3.69%	5	3.47%	4	3.05%
	Transferred/Other-Non Disp.	4	1.01%	0	0.00%	0	0.00%	2	1.53%
	Total Cases	396		352		144		131	
Agency	Affirmed/Affd. In Part	9	56.25%	11	64.71%	12	40.00%	7	29.16%
	Dismissed	1	6.25%	1	5.88%	1	3.33%	4	16.67%
	Reversed/Vacated/Remanded	3	18.75%	5	29.41%	15	50.00%	12	50.00%
	Transferred/Other-Non Disp.	3	18.75%	0	0.00%	2	6.67%	1	4.17%
	Total Cases	16		17		30		24	
	Grand Total Cases	3,093		2,763		2,477		2,381	

CERTIFICATION OF STATE-LAW ISSUES JULY 2021 TO JUNE 2025

CERTIFY QUESTION	BY MOTION	SUA SPONTE	AWAITING RESPONSE	ACCEPTED AND PENDING	ANSWERED	DECLINED	OTHER *
Granted	6	25		1	24	3	3
Denied	25						
*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 - 8	2	6			5	3	
MS - 2		2			2		
TX - 21	4	17		1	17		3

SCREENING CLASSIFICATIONS

JULY 1, 2024 TO JUNE 30, 2025

CLASS							
	I and II (No Argument)		III (Limited Argument)		IV (Full Argument)		Total
	No.	%	No.	%	No.	%	No.
Total	1,397	66.5	704	33.5	0	0	2,101

As of June 30, argument was held in 42.9 percent of the 704 cases designated as Class III and IV.