



BAFFC APPELLATE ADVOCACY SEMINAR

**TIPS TO HELP YOU HANDLE YOUR NEXT
FIFTH CIRCUIT APPEAL**

**Lyle Cayce
Clerk of Court
October 4, 2021**

DISCUSSION TOPICS

- Circuit Overview
- Clerk's Functions and Responsibilities
- Practice tips:
 - Things You Should Consider Before You File Your Appeal
 - What You Need to Do to Practice in Our Court
- Resources Available to Litigants

CIRCUIT OVERVIEW

5TH CIRCUIT'S NINE DISTRICT COURTS

Louisiana Districts:

Eastern District, New Orleans

Chief Judge Nannette Brown - Clerk Carol Michel

Middle District, Baton Rouge

Chief Judge Shelly D. Dick - Clerk Mike McConnell

Western District, Shreveport

Chief Judge S. Maurice Hicks, Jr. - Clerk Tony Moore

Mississippi Districts:

Northern District, Oxford

Chief Debra M. Brown - Clerk David Crews

Southern District, Jackson

Chief Judge Daniel P. Jordan, III - Clerk Arthur Johnston

Texas Districts:

Eastern District, Beaumont

Chief Judge Rodney Gilstrap - Clerk David O'Toole

Northern District, Dallas

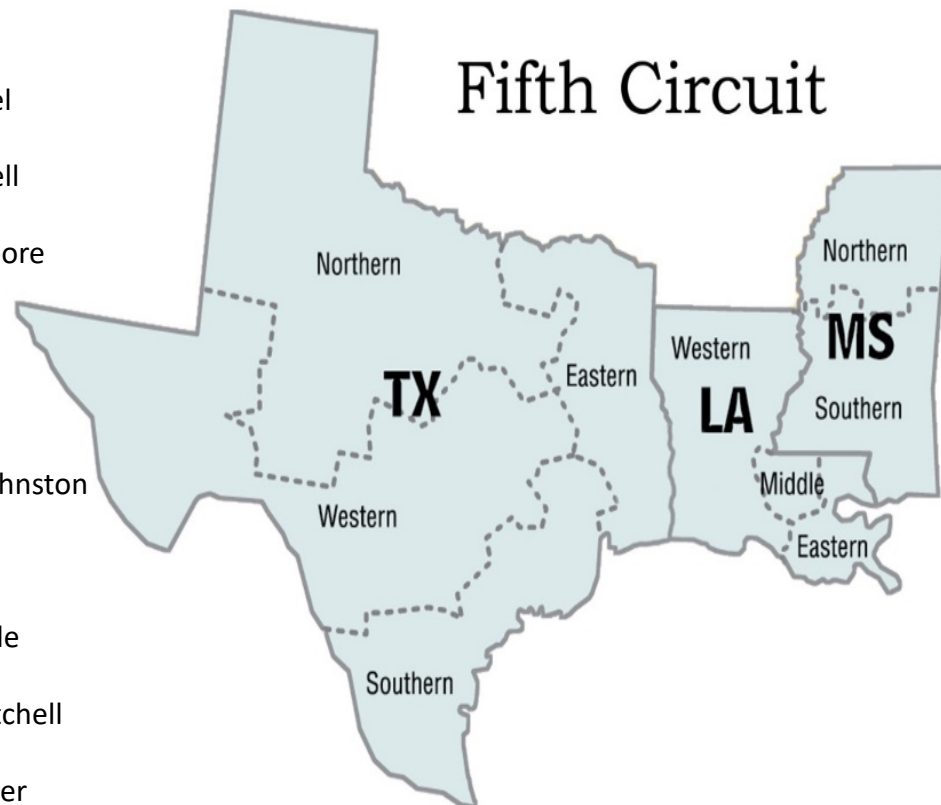
Chief Judge Barbara M.G. Lynn - Clerk Karen Mitchell

Southern District, Houston

Chief Judge Lee Rosenthal - Clerk Nathan Ochsner

Western District, San Antonio

Chief Judge Orlando L. Garcia - Clerk Jeannette Clack



5TH CIRCUIT JUDGES

Authorized 17 Active Judges

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

*Senior Judge

CLERK FUNCTIONS AND RESPONSIBILITIES

- The Clerk is the custodian of the court's records and papers and POC for all matters. Unless otherwise directed, all communications with the court must be made through the clerk's office.
- Clerk's duties:
 - Receive and account for monies paid to the court;
 - Initiate a docket for each appeal;
 - Enter all filings in appeals;
 - Create calendars, panels, and assign cases to panels;
 - Enter orders and opinions of the court; and
 - Decide procedural motions set forth in 5TH CIR. R. 27.1 and 31.4.
- Goal: maintain independence of judiciary while strengthening relations with the public and bar.

THINGS TO CONSIDER BEFORE FILING THE APPEAL

WHAT ARE MY CHANCES FOR SUCCESS?

- For the 12-month period which ended on June 30, 2021, the court reversed or vacated only 7.6% of appeals.
- Reversal Statistics for Common Case Types:
 - 3.2% of criminal appeals
 - 17.1% of non-prisoner “U.S. Civil Cases”
 - 15.3% 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.

THINGS TO CONSIDER BEFORE FILING THE APPEAL

HOW LONG WILL IT TAKE FOR THE COURT TO DECIDE MY APPEAL?

•Notice of Appeal to Filing of Last Brief:	4.9 Months
•Last Brief to Hearing or Submission:	4.7 Months
•Hearing to Final Disposition:	1.1 Months
•Submission to Final Disposition	0.5 Months
•Notice of Appeal to CA 5 Final Disposition:	10.6 Months

The median time from filing of the Notice of Appeal to CA 5 final disposition in oral argument cases is **13.3 Months**.

THINGS TO CONSIDER BEFORE FILING THE APPEAL

WHAT DOES IT COST TO FILE?

- Appellants must pay a \$5.00 filing fee and a \$500.00 docketing fee to the district court clerk when the notice of appeal is filed.
- No fee required for:
 - the United States or an officer or agency thereof;
 - defendants filing a direct criminal appeal who are represented by Criminal Justice Act appointed attorneys;
 - non-incarcerated appellants granted leave to appeal in forma pauperis or seeking to appeal in forma pauperis.

THINGS TO CONSIDER BEFORE FILING THE APPEAL

HOW DO I FILE THE NOTICE OF APPEAL?

- You appeal a final judgment or order of a district court by filing a notice of appeal with the **district court clerk** within the time prescribed in FED. R. APP. P. 3(a) and 4 and pay that clerk required fees.
- Name all the parties taking the appeal, designate the judgment or order you are appealing, and identify the court you are appealing to. FED. R. APP. P. 3(c).
- The district court clerk notifies all parties that a notice of appeal has been filed and sends us a copy of the notice of appeal, which we docket. FED. R. APP. P. 3(d).

THINGS TO CONSIDER BEFORE FILING THE APPEAL

WHAT IS MY FILING DEADLINE?

- Civil Cases:
 - If the United States is not a party, you must file your notice of appeal within 30 days after entry of the judgment or order appealed from, FED. R. APP. P. 4(a)(1). 19
 - If the United States is a party, any party may file the notice of appeal within 60 days after entry of the judgment or order appealed from.
 - If a party files a timely notice of appeal, any other party may file a notice of appeal within 14 days thereafter, or within the time otherwise prescribed by FED. R. APP.P. 4(a). If two or more notices of appeal are filed, the 14 days run only from the time the first notice of appeal was filed, FED. R. APP. P. 4(a)(3).
- Criminal Cases:
 - A defendant must file a notice of appeal within 14 days after entry of the judgment or order appealed from, FED. R. APP. P. 4(b).
 - When the United States is authorized to file a notice of appeal, it must file within 30 days after entry of the judgment or order appealed from, or the defendant's notice of appeal.

THINGS TO CONSIDER BEFORE FILING THE APPEAL

WHAT MUST I DO TO PRACTICE IN THE FIFTH CIRCUIT?

- Requirements:
 - Be an active member of the Fifth Circuit Bar.
 - Create a PACER account and link the account to the Fifth Circuit CM/ECF.
 - There is no fee to register for a PACER account, but you must enter a payment method at PACER registration to obtain access to our CM/ECF site, download the EROA, view sealed documents, or use our quality control program to check your brief.
 - File an entry of appearance form in each case.

HOW DO I APPLY FOR ADMISSION TO THE FIFTH CIRCUIT BAR?

- Don't confuse the Fifth Circuit Bar and the Bar Association of the Fifth Federal Circuit (BAFFC). Each year several attorneys join the BAFFC and think they have been admitted in our court.
- Apply to practice with us online through PACER.
 - On PACER, go to “Manage my Account” and select “Maintenance” then “Attorney Admissions / E-File Registration.”
 - Upload the following documents (available on website):
 - The completed application
 - Unless exempt, a certificate of good standing from a state bar/court, and
 - A motion for admission signed by a member of this court's bar
 - You will receive a link to pay the application fee of \$238.00.
 - This also registers you as an electronic filer under 5th Cir. R. 25.2.3 when we process your request.

IF I AM ALREADY A MEMBER OF YOUR BAR, HOW DO I REGISTER TO FILE?

- Go to “Manage my Account” on PACER, select “Attorney Admissions / E-File Registration” under the Maintenance tab.
- Select US Appellate Court, then Select Fifth Circuit, then select “E-file only.”
- Make sure you enter a payment method for viewing documents in PACER as this permits you to view sealed documents, download the EROA, and use our QC program, as discussed earlier.
- After we process your request, you will receive an email announcing that you are an electronic filer under 5th Cir. R. 25.2.3.

Failure to provide us accurate email addresses can prevent e-filing.

We email bar renewal notices to attorneys. Often, attorneys do not receive the emails because they did not update their addresses. Expired members must be readmitted to file pleadings.

Update information through manage my account on PACER.

FW: FINAL NOTICE: 5TH CIRCUIT BAR MEMBERSHIP RENEWAL DUE



CA05db_BarRenewals

Wed 9/22/2021 11:09 AM

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 \$238.00. 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.

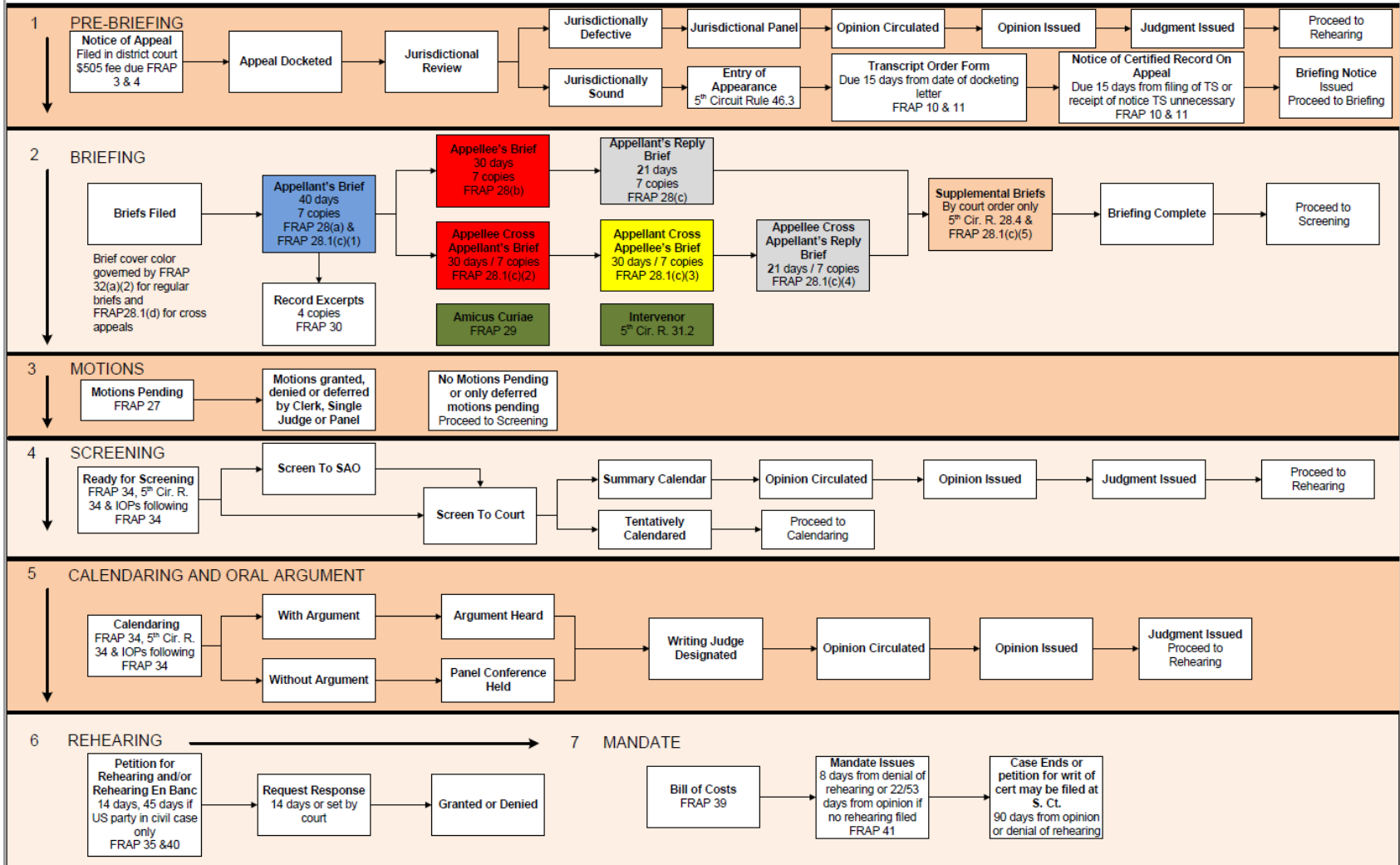
Please visit us at <http://www.ca5.uscourts.gov/attorneys/membership/renewal-2> for additional information on renewing your membership with the 5th Circuit Bar.

Please note, this notice does not pertain to membership in the Bar Association of the Fifth Federal Circuit.

**I filed my appeal, entered
an appearance, ordered
my transcript, and the
EROA has been certified.
What happens next?**

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

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



FILING PLEADINGS

- Electronic filing is mandatory for attorneys unless excused for good cause.
- Pro se can request ECF for individual cases.
- Must file an appearance form in each appeal to access the EROA, file documents, and receive electronic NDA's.
- A COVID-19 related General Order still suspends the requirement for litigants to file paper copies of pleadings and record excerpts. You should expect to provide paper copies in OA cases.

THE BRIEFING NOTICE TELLS YOU WHAT YOU MUST DO AND WHEN. READ IT CLOSELY TO AVOID PROBLEMS

- Your briefing notice is tailored to your appeal and advises you of requirements. It tells you:
 - When your brief is due. The court disfavors extensions and will dismiss your case if you do not timely file your brief;
 - How to properly cite the record on appeal in your brief;
 - The correct case caption to use on the cover of your brief;
 - Many other requirements that you must meet; and
 - To send in an appearance form if you have not already done so.

WHAT ARE THE MOST COMMON FILING ERRORS?

- Using the wrong event or relief (select from the searchable list on court ECF Page).
- Improperly filing sealed matters.
 - To Upload a Sealed Document, Use the Event “ECF Motion and/or Document Filed Under Temporary Seal” in the Category of “Under Seal.”
- Trying to file before filing an Appearance Form.
- Not including ROA cites, including incorrect cites, or using the wrong EROA format.
- Not including required Certificates of Compliance on motions, responses, replies, and rehearings.
- Not including a Certificate of Conference.
- Incomplete Transcript Order Forms (Required even if transcripts are not needed).
- Not using the **EXACT** CASE CAPTION we provide in the briefing notice.
- Attaching record excerpts to briefs (must be separately filed).

WHO CAN I CALL IN YOUR OFFICE FOR ASSISTANCE?

LOOK AT YOUR CASE NUMBER!

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> Amanda Sutton-Foy (ASF) 310-7670		<u>CASE MANAGER</u> Angel Tardie (ABT) 310-7715		<u>CASE MANAGER</u> Connie Brown (CB) 310-7671	
Nos. Ending in 1: Roeshawn Johnson (RAJ) 310-7998 Nos. Ending in 2: Mary Frances Yeager (MFY) 310-7686 Nos. Ending in 3: Melissa Mattingly (MRM) 310-7719 Nos. Ending in 4: Charles Whitney (CBW) 310-7679 Nos. Ending 5: Casey Sullivan (CAS) 310-7642 Nos. Ending in 6: Laney Lampard (LLL) 310-7652	No. ending in 7: Melissa Courseault (MBC) 310-7701 Nos. Ending in 9: Lisa Ferrara (LEF) 310-7675 Case Management Nos. Ending in 8 and 0: are routed as identified above based on the second to last number. Generalist Work Only: Nos Ending in 8, & 0: Renee McDonough (RSM) 310-7673 Prisoner Pro Se Clerk: Claudia Farrington (CNF) 310-7706	Nos. Ending in 1, & 2: Christy Rachal (CCR) 310-7651 Nos. Ending in 3, & 4: Shawn Henderson (SDH) 310-7668 Nos. Ending in 5 & 6: Rebecca Leto (RLL) 310-7703 Nos. Ending in 7, & 8: Dawn Shulin (DMS) 310-7658 Nos. Ending in 9 & 0: Christina Gardner (CAG) 310-7684	Prisoner Pro Se Clerk: Donna Mendez (DLM) 310-7677 Opinions Specialist: Nancy Dolly (NFD): 310-7683	Nos. Ending in 1 (All work): Whitney Jett (WMJ) 310-7772 Nos. Ending in 2 (All work): Mary C. Stewart (MCS) 310-7694 Nos Ending in 3 (All work): Allison Lopez (AGL) 310-7702 Nos. Ending in 4 (All work): Shea Pertuit (SEP) 310-7666	Nos. Ending in 6 (All work): Majella Sutton (MAS) 310-7680 Nos. Ending in 7 (All work): Dantrell Johnson (DLJ) 310-7689 *Case Nos. ending in 5, 8, 9, and 0 are routed as identified above based on the second to last number. Prisoner Pro Se Clerk: Monica Washington (MRW) 310-7705
DEATH PENALTY 70000 Monica Washington (MRW) 310-7705 1 st Backup: Mary Frances Yeager (MFY) 310-7686 2 nd Backup: Donna Mendez (DLM) 310-7677					
ALL TEAMS/ALL CASE NUMBERS					
OPINION SPECIALIST TEAM LINE: 310-7800 Peter Connors (PAC): 310-7685 Nancy Dolly (NFD): 310-7683	OPINION ASSIGNMENTS, CASES ENDING IN: 1: Whitney Jett, 310-7772 2: Christy Rachel, 310-7651 3: Laney Lampard, 310-7652 4: Charles Whitney, 310-7679 5, 6, 7, 8, 9 and 0: Nancy Dolly, 310-7683		RECORDS DATA QUALITY ANALYSTS Team Line: 310-7721 Dawn LeBlanc (DDL): 310-7717 Cindy Broadhead (CMB): 310-7707		

OTHER HELPFUL RESOURCES AND PROCEDURES FOR FILERS

- We display pending deadlines in all appeals.
- We let you download a copy of the unsealed Electronic Record on Appeal (EROA).
- We offer Brief Templates you can use to create or check your filing.
- We programmatically examine your filing and let you know if they comply with FRAP and local rules.
- We grant a 3-day extension if your e-filed brief has errors (not available in expedited cases).

PENDING DEADLINES/FILINGS



Filing Reports ▼ Utilities ▼ Help Getting Started Log Out

United States Court of Appeals for the Fifth Circuit



U.S. Court of Appeals CM/ECF Official Attorney Electronic Document Filing System

This is a restricted government website for official court business only. All activities of CM/ECF subscribers or users of this system for any purpose, and all access attempts, may be recorded and monitored by persons authorized by the federal judiciary for improper use, protection of system security, performance of maintenance and for appropriate management by the judiciary of its systems. By subscribing to CM/ECF, users expressly consent to system monitoring and to official access to data reviewed and created by them on the system. If evidence of unlawful activity is discovered, including unauthorized access attempts, it may be reported to law enforcement officials.

Welcome

Welcome to the U.S. Court of Appeals Case Management/Electronic Case Files System. Please select an option from the menu.

Last Login Fri Sep 24 08:11:42 CDT 2021

[Court Information](#)

If you are an attorney or pro se granted electronic filing privileges in our Court, the landing screen will automatically display deadlines for your cases. You can sort this information by case number, item due, or date due. You may docket an item by selecting the hyperlink under the "File Event" tab. **If you prefer to not see the deadlines, simply remove the check from the "Show Pending Deadlines" box.**

☒ Show Pending Deadlines

Pending Deadlines/Filings

Case ▼	Title	Item Due ⇅	Party Type/Name	Date Due ⇅	File Event
21-50886	USA v. Matthew Artega	A/Pet's Brief Due	Appellant Matthew Taylor Artega	10/22/2021	Appellant/Petitioner Brief Filed Anders Brief Filed Rule 28i letter filed adopting brief

UNCHECK BOX TO REMOVE DEADLINES



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United States Court of Appeals for the Fifth Circuit



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Show Pending Deadlines

RESOURCES AND ASSISTANCE UNDER THE UTILITIES TAB

CM/ECF

Filing Reports Utilities Help Getting Started Log Out

United States Court of Appeals for the Fifth Circuit

Bar Renewal

Bar History Report

File Case Originating Documents with Fee

File Case Originating Documents w/o Fee

Request Documents

Electronic Record on Appeal

Brief Template

Check PDF Document

Notice for Cases of Interest

Update My Account

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☐ Show Pending Deadlines

DOWNLOADING THE EROA

(AGENCY EROA -- ONE FREE DOWNLOAD THROUGH PACER)

CM/ECF Filing Reports Utilities Help Getting Started Log Out United States Court of Appeals for the Fifth Circuit

Bar Renewal
Bar History Report
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File Case Originating Documents w/o Fee
Request Documents
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☒ Show Pending Deadlines

Pending Deadlines/Filings

Case	Title	Item Due	Party Type/Name	Date Due	File Event
21-50886	USA v. Matthew Artega	A/Pet's Brief Due	Appellant Matthew Taylor Artega	10/22/2021	Appellant/Petitioner Brief Filed Anders Brief Filed Rule 28i letter filed adopting brief

Electronic Records Available for Download

Prid:

Case Number	Short Title	Date Accepted
21-50886	USA v. Artega	August 26, 2021
21-10775	USA v. Moore	August 23, 2021
21-10769	USA v. Dunson	September 21, 2021
21-10754	USA v. Hobbs	August 27, 2021
21-10753	USA v. Hernandez	August 26, 2021
21-10748	USA v. Crear	August 06, 2021

EROA DOWNLOAD

INDIVIDUAL VOLUMES OR CREATE A PORTFOLIO

Electronic Record Volumes for 21-50866

Select All ☐ To create a pdf collection,
choose the volumes to include and then click 'Create Portfolio'

Create Portfolio

5:17-CR-915-1

	Volume	Pages	
<input type="checkbox"/>	Docket Sheet	1 - 21	
<input type="checkbox"/>	+ Pleadings (20.53MB)	22 - 363	Pleadings
<input type="checkbox"/>	Transcripts (126.69KB)	364 - 367	Proceedings Transcribed: Arraignment - 4/2/2018.
<input type="checkbox"/>	Transcripts (136.64KB)	368 - 373	Proceedings Transcribed: Bond Hearing - 4/4/2018.
<input type="checkbox"/>	Transcripts (166.36KB)	374 - 389	Proceedings Transcribed: Pretrial Conference - 4/11/2019.
<input type="checkbox"/>	Transcripts (193.68KB)	390 - 452	Proceedings Transcribed: Jury Selection/Voir Dire Proceedings - 4/15/2019.
<input type="checkbox"/>	Transcripts (475.05KB)	453 - 638	Proceedings Transcribed: Jury Trial Proceedings - 4/16/2019.
<input type="checkbox"/>	Transcripts (202.24KB)	639 - 692	Proceedings Transcribed: Jury Trial/Verdict - 4/17/2019.
<input type="checkbox"/>	Transcripts (140.41KB)	693 - 700	Proceedings Transcribed: Hearing - 1/3/2020.
<input type="checkbox"/>	Transcripts (490.97KB)	701 - 798	Proceedings Transcribed: Competency Hearing - 5/5/2021.
<input type="checkbox"/>	Transcripts (167.75KB)	799 - 813	Proceedings Transcribed: Sentencing Volume 1 - 6/28/2021.
<input type="checkbox"/>	Transcripts (408.68KB)	814 - 900	Proceedings Transcribed: Sentencing Volume 2 - 7/6/2021.

CUSTOM BRIEF TEMPLATES

- Appellant or appellee can download templates in Microsoft Word tailored to the appeal.
- Templates provided for appellant, appellee, and reply briefs.
- Includes accurate case information as of the time the template is created.
- For each brief types, template includes sections and certifications required by FRAP and local rules and populates the available information from court systems in the correct sections of the briefs.
- Templates can help you draft your brief or be compared to your document to alert you to deficiencies or missing sections.

DOWNLOADING A BRIEF TEMPLATE



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United States Court of Appeals for the Fifth Circuit

- Bar Renewal
- Bar History Report
- File Case Originating Documents with Fee
- File Case Originating Documents w/o Fee
- Request Documents
- Electronic Record on Appeal
- Brief Template**

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☒ Show Pending Deadlines

Pending Deadlines/Filings

No pending deadlines/filings.

CM/ECF
Electronic Filing System

Brief Templates Available for Download

Prid:

Case Number	Short Title	Type	Date Created
21-50886	USA v. Arteaga	Appellee Brief	September 22, 2021
21-50885	USA v. Morris	Appellee Brief	September 22, 2021
21-50882	USA v. Fierro	Appellee Brief	September 21, 2021
21-50881	USA v. Carillo	Appellee Brief	September 21, 2021
21-50879	USA v. Pham	Appellee Brief	September 20, 2021
21-50877	USA v. Rodriguez-Morales	Appellee Brief	September 20, 2021
21-50876	USA v. Villegas	Appellee Brief	September 17, 2021
21-50875	USA v. Huerta-Rodriguez	Appellee Brief	September 17, 2021
21-50874	USA v. Lopez-Nicolas	Appellee Brief	September 17, 2021
21-50873	USA v. Hernandez-Ortega	Appellee Brief	September 17, 2021
21-50872	USA v. Pascual-Miguel	Appellee Brief	September 17, 2021
21-50871	USA v. Zavala	Appellee Brief	September 17, 2021

BRIEF TEMPLATES

No. 21-50886

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States of America,

Plaintiff - Appellee

v.

Matthew Taylor Arteaga,

Defendant - Appellant

On Appeal from
United States District Court for the Western District of Texas
7:21-CR-78-4

BRIEF OF APPELLANT MATTHEW ARTEAGA

SUBMITTED BY:

Matthew James Kozik
310 N. Mesa Street
El Paso, TX 79901-0000

CERTIFICATE OF INTERESTED PERSONS

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

s:	Counsel for Appellees:
ates of America	Joseph Gay of U.S. Attorney's Office San Antonio, TX

ts:	Counsel for Appellants:
Arteaga	Matthew Kozik El Paso, TX

terested Parties:	Counsel for Interested Parties:
e	Type Here

S/Matthew James Kozik
Attorney of record for Type Here

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

iii

JURISDICTIONAL STATEMENT

isdictional Statement as required by FED. R. APP. P. 28(a)(4)(A)

STATEMENT OF THE ISSUES

ment of Issues presented for review as required by FED. R. APP. P.

STATEMENT OF THE CASE

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

SUMMARY OF THE ARGUMENT

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

ARGUMENT

2

CERTIFICATE OF SERVICE

RT DATE, the foregoing document was served, via the Court's
iling System, upon the following registered CM/ECF users:

COUNSEL

paper copy of the foregoing document was forwarded via U.S.
to the following parties/counsel:

ED ADDRESSES

S/Matthew James Kozik

e if the form required by FED. R. APP. P. 25.

4

AN OVERLOOKED RESOURCE -- AUTOMATED QUALITY CONTROL CHECK

- Our quality control (QC) program examines briefs to determine compliance with FRAP and Local Rules.
- Check your brief before filing to avoid a rejected pleading.
- We use this program internally to help us review your brief and alert of possible deficiencies, but a deputy clerk, not a computer, decides whether a brief should be rejected.

CHECKING YOUR BRIEF FOR ERRORS BEFORE E-FILEING

CM/ECF Filing Reports ▾ Utilities Help Getting Started Log Out United States Court of Appeals for the Fifth Circuit

Bar Renewal
Bar History Report
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Welcome
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Check PDF Document
Check PDF For
☒ Check pleading for Compliance with FRAP and Local Rules.
☐ General PDF Check Only - This test will confirm whether your document is in the PDF format required by our rules.

Case Number
yy-mm-dd or yy-mm-yy

Select PDF Check Test: Appellants Brief

Last Login From File Browse...

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☒ Show Pending Deadlines

Pending Deadlines/Filings

Case	Title	Item Due	Party Type/Name	Date Due	File Event
21-50885	USA v. Carol Morris	A/Pet's Brief Due	Appellant Carol Johnene Morris	10/22/2021	Appellant/Petitioner Brief Filed Anders Brief Filed Rule 28i letter filed adopting brief
21-50886	USA v. Matthew Artega	A/Pet's Brief Due	Appellant Matthew Taylor Artega	10/22/2021	Appellant/Petitioner Brief Filed Anders Brief Filed Rule 28i letter filed adopting brief

<https://ecf-test.ca5.uscourts.gov/n/AttorneyFiling/pages/secured/Utilities/checkPDFDocument.jsf?caller=...>

NOTICE OF POSSIBLE ERRORS THAT MIGHT CAUSE REJECTION OF PLEADING

CM ECF Filing Reports Utilities Help Getting Started Log Out

Attention

Reminder: Brief's scanned into PDF are not acceptable. (See 5th Cir. R. 31.1). Please do not load a scanned brief.

- Click the 'Browse' button to locate and upload the PDF file.
- To be sure you are selecting the intended document, view the file by selecting it under the document column.
- If applicable, enter a description and click 'Browse' again to attach additional documents.

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We have performed a courtesy check of this brief to identify issues that might require the Clerk's Office to reject the pleading, using a locally developed Quality Control (QC) computer program. Please review the following matters identified as potential deficiencies. We recommend you correct any deficiencies before you file the document, as that will likely avoid the need for you to file a corrected pleading later. If you need time to make the corrections, you may request up to a three-day extension to make the changes. The program very accurately identifies deficiencies for most of the matters it checks, but can mistakenly suggest a deficiency exists. This most commonly occurs when the program does not find the exact or close match for required contents or sections, or when nearby text or characters confuse the search engine. If you believe the program incorrectly identified a deficiency, continue with docketing. In that case, however, please inform us of the discrepancy, so we can review the issue and improve the program's accuracy. Provide that information, and any other observations or recommendations you have, by email to the following address: Margaret_Dufour@ca5.uscourts.gov.

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- The title page must contain the number of the case centered at the top. See FED. R. APP. P. 32(a)(2)(A).
- The name of the **Originating Court, Agency, or Board** does not appear or is incorrect on the title page of the brief. See the redline below for the changes required:
UNITED STATES DISTRICT COURT FOR THE **NORTH**EASTERN DISTRICT OF **TEXAS**LOUISIANA See FED. R. APP. P. 32(a)(2)(D).
- The use of the ROA record citation format is **ONLY** allowed in cases wherein an electronic record has been filed. A paper/physical record was filed in this case, therefore, use of the ROA citation format is unacceptable. This Court does not provide a standard format for citing to a paper/physical record. Counsel must remove all ROA citations from the brief, and replace the citations with a format devised by counsel. It is suggested that counsel create record citations that are concise and consistent throughout the brief by using either the document name, document number, page number in document, filed date, and/or any other identifiable information available. The record citations must be in the correct form or the brief will be rejected. See FED. R. APP. P. 28(e) and 5th Cir. R. 28.2.2. See [Form 1](#) for examples of record on appeal citations.

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PROGRAM ALSO PROVIDES NOTICE OF ERRORS DURING FILING

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Attention

Reminder: Briefs scanned into PDF are not acceptable. (See 5th Cir. R. 31.1). Please do not load a scanned brief.

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- The program could not find a deadline for the event selected for this filer. If you are certain there is a deadline for the document being filed, you may have selected an incorrect event. Please verify the correct event has been selected.

For future reference, we provide two services that may help attorneys avoid deficient briefs. First, we offer [brief templates](#) in Microsoft Word formatted to comply with court rules, customized for the case and type of brief due. Second, we permit attorneys to check a brief for compliance with FRAP and local rules using our quality control program before they docket the brief. To use these features, log in to CM/ECF and from the Utilities menu, select either 'Brief Template' (Counsel Only) or 'PDF Check Document'.

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WHAT DOES THE QC PROGRAM CHECK?

- Verifies attorney filing is authorized to file the brief (entered an appearance) and the brief has correct required electronic signatures (S/)
- Verifies brief has the correct case number/caption and Court Name/Originating Court Name as required by the docketing notice
- Verifies the brief is the correct type for your filing (Appellant, Appellee, Reply)
- Verifies compliance with requirements for argument volume (pages or words), page margins, font size, and similar issues
- Verifies the document is a text readable PDF and not a scanned document
- Verifies brief includes proper EROA Citations (used to create hyperlinks for judges)
- Verifies brief contains no private information such as Social Security Numbers
- Verifies brief has all required sections (e.g. Certificate of Interested Persons, Table of Contents/Authorities, and Statement of Jurisdiction)

WHEN I FILED, A NOTICE SAID MY BRIEF HAD ERRORS AND IT IS DUE TODAY!

- If the QC Program finds errors when you try to e-file, you can request an automatic three-day extension to make corrections, provided your case has not been expedited.
- Otherwise, 5TH CIR. R. 31.4 governs extensions of time to file briefs.
- Other than the three-day extension mentioned above, no extension is automatic. Unopposed requests for extension for less than 30 days normally should be made by via CM/ECF, 5TH CIR. R. 31.4.3.1, and must include a letter advising why the extensions is needed.
- Submit motions requesting an extension at least 7 days before the due date.
- 5TH CIR. R. 31.4.1. and the Internal Operating Procedures following 5TH CIR. R. 27 and 31 express the court's sense that absent extraordinary circumstances, the MAXIMUM extension in criminal cases is 30 days, and 40 days in civil cases.
- **Short Suspense cases**

CLOSING PRACTICE TIPS

- Make sure you are admitted to the Fifth Circuit Bar and are current; that your PACER Enrollment includes registration with the Fifth Circuit; and that you timely file Appearance Forms.
- Read the Docketing Letter! It contains all necessary information.
- When you receive a Notice of Docketing Activity (NDA), check attachments (one free look).
- If you incorrectly file a document, don't refile. Please call us.
- Extensions:
 - All requests for extension must include justification.
 - Level 1 Extension = Only 30 days total. Must file motion for extension beyond 30 days.
 - Court Considers Criminal Cases where Defendant is Sentenced to 24 months or less as "Short Release" cases, which are closely monitored.

RESOURCES AND ASSISTANCE

- Website: www.ca5.uscourts.gov
- Fifth Circuit Life of the Appeal Flow Chart
- Frequently Asked Questions (FAQ)
- Practitioner Guide
- Guide to Filing Emergency Motions
- Brief Guidance and Sample Briefs
- Record Reference Guide (Cite link)
- Case Management Teams Contact List
- Help Desk: 877.232-1038 or
Webmaster@ca5.uscourts.gov

Helpful resource: PRACTITIONERS' GUIDE

PRACTITIONERS' GUIDE
TO THE
UNITED STATES COURT OF APPEALS
FOR THE
FIFTH CIRCUIT

November 2020

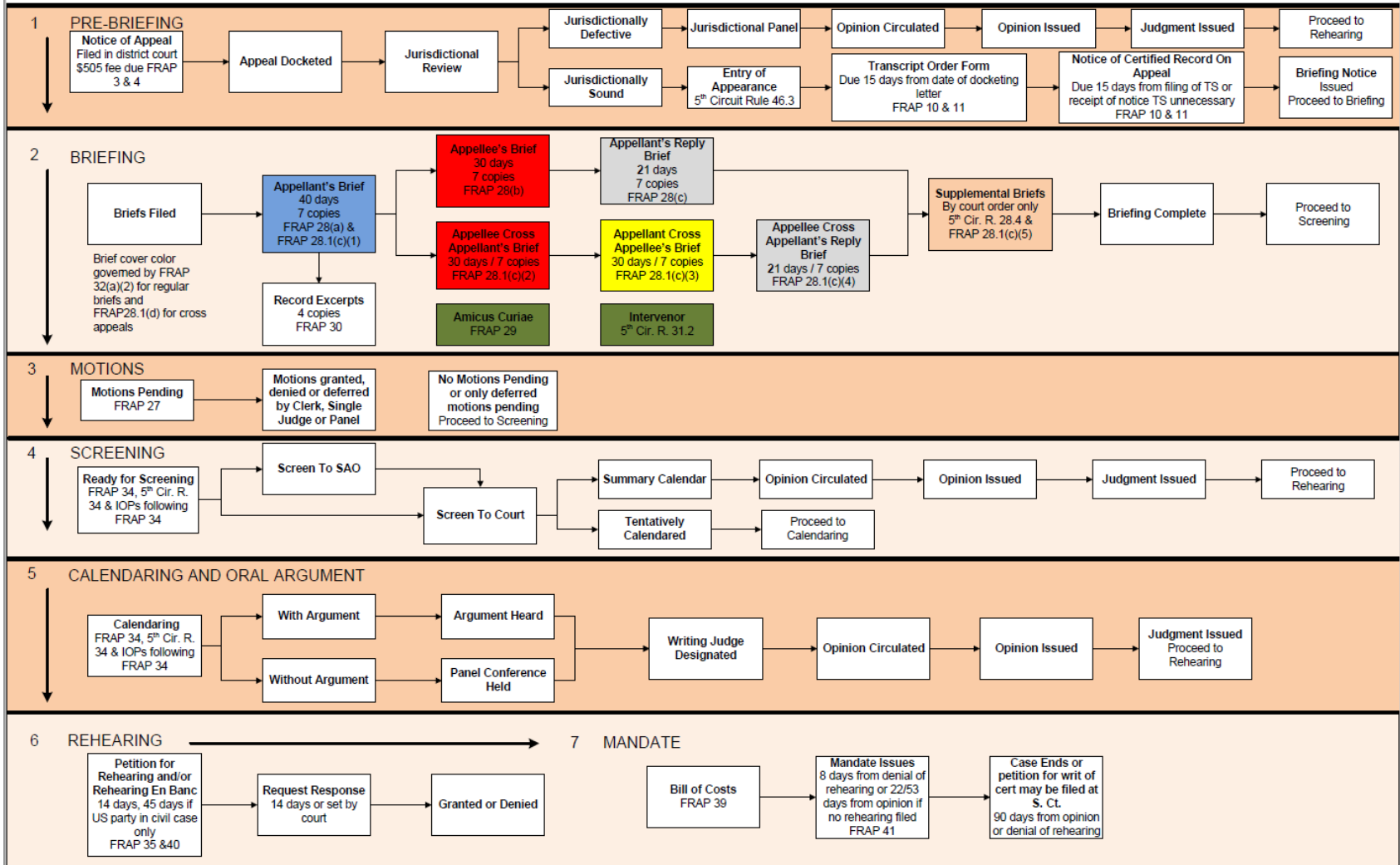
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Things You Should Consider
before Filing the Appeal
How to File the Appeal
Bar Membership
Responsibilities of the Clerk's
Office and Attorney
requirements
Writing Your Brief and Preparing
Record Excerpts
Motions
How the Court Screens Cases
Oral Argument procedures
Post-Decision Matters

*Guide located at:
<http://www.ca5.uscourts.gov/docs/default-source/forms-and-documents---clerks-office/documents/practitionersguide.pdf>

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

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

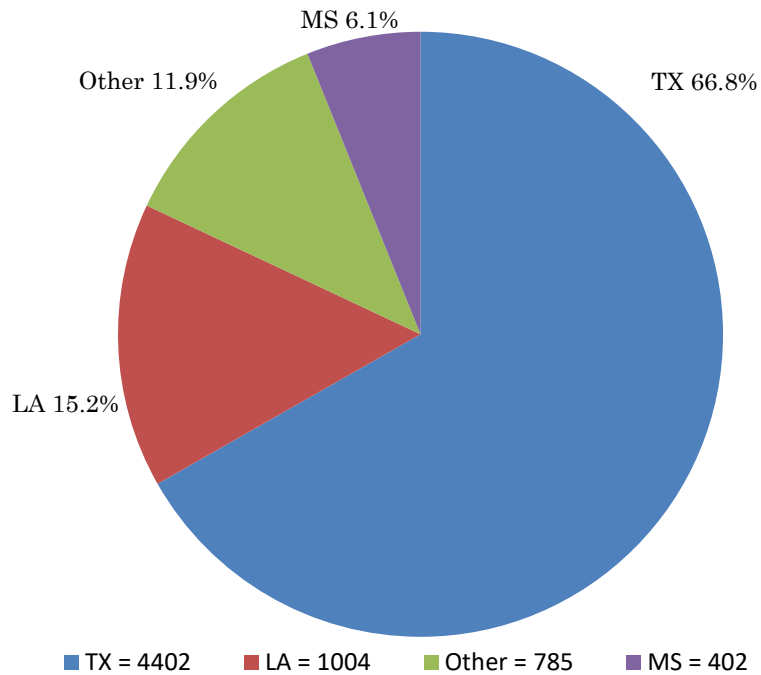


STATISTICAL REVIEW

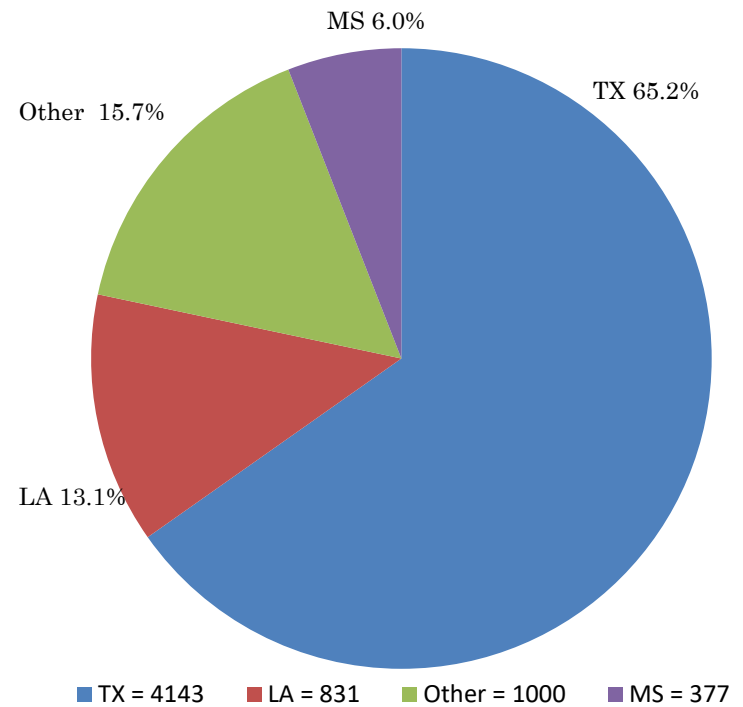
1 July 2020 – 30 June 2021

NEW APPEALS BY STATE

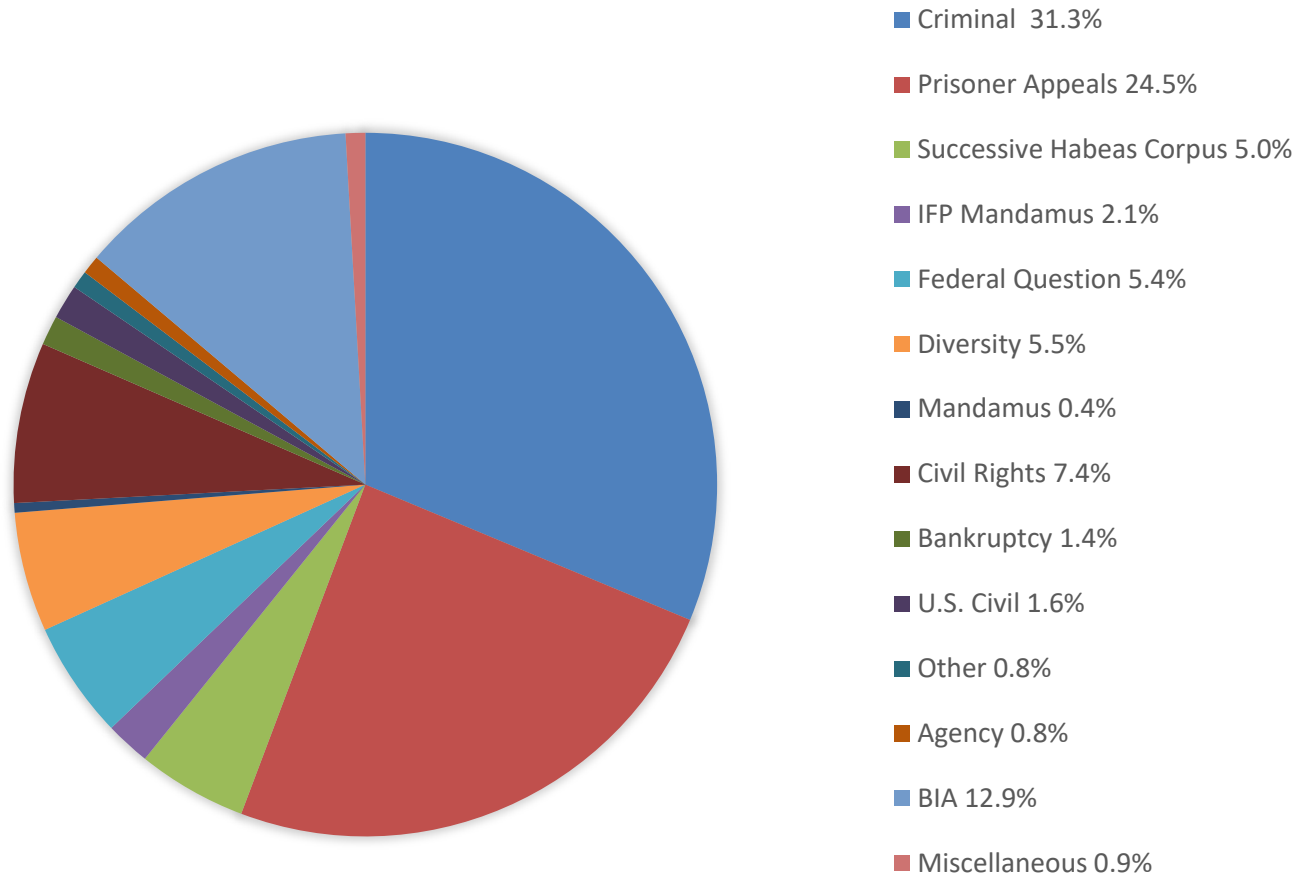
2020



2021



NEW APPEALS BY CASE TYPE



STATISTICAL SNAPSHOT

FOR THE 12-MONTH PERIOD ENDING JUNE 30, 2021

	Cases Commenced	Procedural Terminations	Total Merits Terminations	Merits Terminations After Oral Hearing	Merits Terminations on Briefs	% Placed on the Oral Argument Calendar	% Reversed
Criminal	1,987	439	1,567	253	1,094	16.1%	3.2%
U.S. Prisoner Petitions	492	240	325	25	267	7.7%	4.5%
Other U.S. Civil	199	100	91	38	38	41.8%	17.1%
Private Prisoner Petitions	1,060	519	632	54	489	8.5%	4.4%
Other Private Civil	1,105	493	671	379	177	56.5%	15.3%
Bankruptcy	86	29	41	22	8	53.7%	16.7%
Administrative Agency	886	397	354	66	262	18.6%	2.7%
Original Proceedings*	479	190	368	1	356	0.3%	0.0%
Miscellaneous	57	6	51	0	51	0.0%	0.0%
TOTAL	6351	2,413	4,100	838	2,742	20.4%	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 Granted	
Fifth Circuit	489	2,065	203	15	179	10	

*Including successive habeas corpus and pro se mandamus petitions