

Annual Report
United States Court of Appeals for Veterans Claims
October 1, 2014 to September 30, 2015 (Fiscal Year 2015)

Pursuant to 38 U.S.C. § 7288, the United States Court of Appeals for Veterans Claims (Court) submits the following report summarizing the workload of the Court for Fiscal Year (FY) 2015.

- 1. The number of appeals filed with the Court:** 4,506 (27% pro se at time of filing)
- 2. The number of petitions filed with the Court:** 388 (28% pro se at time of filing)
- 3. The number of applications filed with the Court under the Equal Access to Justice Act (EAJA) section 2412 of title 28:** 2,978
- 4. The total number of dispositions¹ by each of the following for FY 2015:**
 - (A) The Court as a whole:** 7,534
Appeals: 4,030 (12% pro se at time of disposition)
Petitions: 406 (26% pro se at time of disposition)
EAJA: 2,910
Requests for Reconsideration/Panel Decision:² 150 appeals, 38 petitions
 - (B) The Clerk of the Court:**³ 5,573
Appeals: 2,686
Petitions: 22
EAJA: 2,865
There were no Requests for Reconsideration of the Clerk's orders.
 - (C) A single judge of the Court:** 1,851
Appeals: 1,313
Petitions: 383
EAJA: 41
Requests for Reconsideration of a Single Judge Decision: 88 appeals, 26 petitions

¹ "Dispositions" include each resolution of a matter, including decisions on appeals, petitions, EAJA applications, and requests for reconsideration/panel decision.

² The number of requests for reconsideration by the Court includes requests for reconsideration by a single judge of the Court, a multi-judge panel of the Court, and the full Court.

³ This number generally includes matters resolved through agreement of the parties, often with the aid of staff conferencing.

(D) A multi-judge panel of the Court: 95

Appeals: 26

Petitions: 1

EAJA: 4

Requests for Panel Decision following a Single Judge Decision/Reconsideration:
54 appeals, 10 petitions

(E) The full Court: 15

Appeals: 5

Petitions: 0

EAJA: 0

Requests for Full Court Decision following a Panel Decision/Reconsideration:
8 appeals, 2 petitions

5. The number of each type of disposition by the Court, including settlement, affirmation, remand, vacation, dismissal, reversal, grant, and denial:

	Total	Clerk⁴	Single Judge	3 Judge Panel	En Banc
APPEALS					
Affirmed	445	0	438	4	3
Affirmed or dismissed in part, reversed/vacated and remanded in part	1415	1260	151	4	0
Reversed or vacated and remanded in whole or in part	556	0	548	8	0
Remanded	1106	1099	5	2	0
Dismissed for lack of jurisdiction/ timeliness	116	4	109	1	2
Dismissed for default	163	108	53	2	0
Dismissed voluntarily	229	215	9	5	0
TOTAL	4030	2686	1313	26	5
PETITIONS					
Extraordinary relief granted	1	0	0	1	0
Extraordinary relief denied	159	0	159	0	0
Extraordinary relief dismissed	223	0	223	0	0
Dismissed for default	2	2	0	0	0
Dismissed voluntarily	21	20	1	0	0
TOTAL	406	22	383	1	0

⁴ Please see footnote 3.

	Total	Clerk	Single Judge	3 Judge Panel	En Banc
EAJA on Appeals					
Granted	2873	2849	23	1	0
Denied	10	0	10	0	0
Dismissed	26	16	8	2	0
EAJA on Petitions					
Granted	1	0	0	1	0
Denied	0	0	0	0	0
Dismissed	0	0	0	0	0
TOTAL	2910	2865	41	4	0

6. The median time from filing an appeal to disposition (i.e., time from the veteran filing an appeal until initial dispositive action of the Court) by each of the following:

(A) The Court as a whole: The median time from filing an appeal to disposition of the case by the Court, as a whole, is 246 days (8.2 months). This involves pre-chambers procedural activity, which includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

(B) The Clerk of the Court: The median time from filing an appeal to disposition of the case by the Clerk is 204 days (6.8 months). This involves pre-chambers procedural activity, which includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

(C) A single judge of the Court: The median time for disposition of a single judge decision once it has been assigned to chambers is 43 days (1.4 months). The median time from filing an appeal to disposition by a single judge, which includes pre-chambers procedural activity, is 383 days (12.8 months). Pre-chambers procedural activity includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

(D) Multiple judges of the Court (including a multi-judge panel of the Court or the full Court): The median time for disposition of a multi-judge panel decision once it has been assigned to panel is 109 days (3.6 months). The median time from filing an appeal to disposition by a multi-judge panel, which includes pre-chambers procedural activity, is 523 days (17.4 months). Pre-chambers procedural activity includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties. In addition, scheduling a case for oral argument, which adds a minimum of 45 days, and additional time for supplemental briefing contribute to the time for panel case disposition.

7. The median time from filing a petition to disposition by the Court: 41 days (1.4 months)

8. **The median time from filing an application under section 2412 of title 28 to disposition by the Court:** 30 days (1 month)
9. **The median time from the completion of briefing requirements by the parties to disposition by the Court:** 90 days (3 months). This time includes approximately two weeks to raise issues relating to finalizing the Record of Proceedings (a compilation of all documents relevant to the appeal) in every case. If an objection to the Record of Proceedings is filed, resolution can take several more weeks. This past fiscal year, very few of the cases were screened by the Court's Central Legal Staff before assignment to chambers. When a case was screened, screening took less than 30 days.
10. **The number of oral arguments before the Court:** 14 held (29 scheduled, 15 settled)
11. **The number of cases appealed to the United States Court of Appeals for the Federal Circuit:** 106
 - Appeals: 80
 - Petitions: 23
 - EAJA: 3
12. **The approximate number and status of appeals and petitions and EAJA applications pending with the Court as of the end of such fiscal year:**
 - Appeals and Petitions: 4,339
 - Pre-chambers procedural activity:⁵ 3,298
 - Pending decision by a Judge or Panel: 264
 - Post decision:⁶ 777
 - EAJA procedural activity: 301
 - EAJA pending decision by a Judge or Panel: 5
 - On appeal before the Federal Circuit: 82
13. **The number of cases pending with the Court more than 18 months as of the end of such fiscal year:** Appeals: 180 Petitions: 0
 - Pre-chambers procedural activity:⁷ 20
 - Pending decision by a Judge or Panel: 18
 - Post decision: 142

⁵ Pre-chambers procedural activity, which occurs during the period of time from filing an appeal to assignment of the appeal to chambers, includes record dispute resolution, staff conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties. This category also includes cases stayed for judicial efficiency.

⁶ This number reflects cases pending during the time required for judgment, mandate, and EAJA (if applicable) as well as cases on appeal to the Federal Circuit.

⁷ Delays associated with these cases are due primarily to parties' requests for stays, requests for additional time from the parties, or complexity of the case.

- 14. A summary of any service performed for the Court by a recalled retired judge of the Court:** The work of the recall retired (Senior) judges primarily focused on resolution and final disposition of several pending cases. The Senior judges were also actively involved in educational outreach programs.
- 15. An assessment of the workload of each judge of the Court, including consideration of the following:**
- (A) The time required of each judge for disposition of each type of case.**
 - (B) The number of cases reviewed by the Court.**
 - (C) The average workload of other Federal appellate judges.**

As reflected in the responses to questions 1-13 above, each active judge on the Court carries a substantial workload. In addition to rendering decisions on appeals, petitions, and related motions (e.g., procedural motions and motions for reconsideration or for panel review), and applications filed pursuant to 28 U.S.C. § 2412 (EAJA), the judges, through the Board of Judges, provide general direction and oversight of the operations of the Court and work on judicial conference and outreach and education issues.

In FY 2015, the Court averaged 165 cases (appeals and petitions) decided on the merits per active judge. With the average number of merits decisions decided per active judge in the 13 Circuit Courts of Appeals ranging from 37 to 258, the Court's 165 average was the 5th highest number of merits decisions per active judge. Also, the number of appeals and petitions filed in FY 2015 increased over the prior year, as indicated in the projections from FY 2014. The Court had 612 filings per active judge, based on the 4,894 cases (4,506 appeals and 388 petitions) filed in FY 2015. The number of filings per active judge for the circuit courts of appeals ranged from 102 (DC Circuit) to 556 (11th Circuit).

Of note, at the same time that the number of appeals filed at the Court is increasing, the Board of Veterans' Appeals has projected an alarming increase in its FY 2017 workload. Additionally, the Court is quickly losing judges. The number of judges has currently fallen to eight and without congressional action it will fall to six in December 2016. For the Court to keep pace with the inevitable and drastic increase in appeals, the Court has the immediate need for action on two initiatives:

- 1) permanent Congressional authorization for nine active judges; and
- 2) Presidential appointments to fill the vacant judgeships.