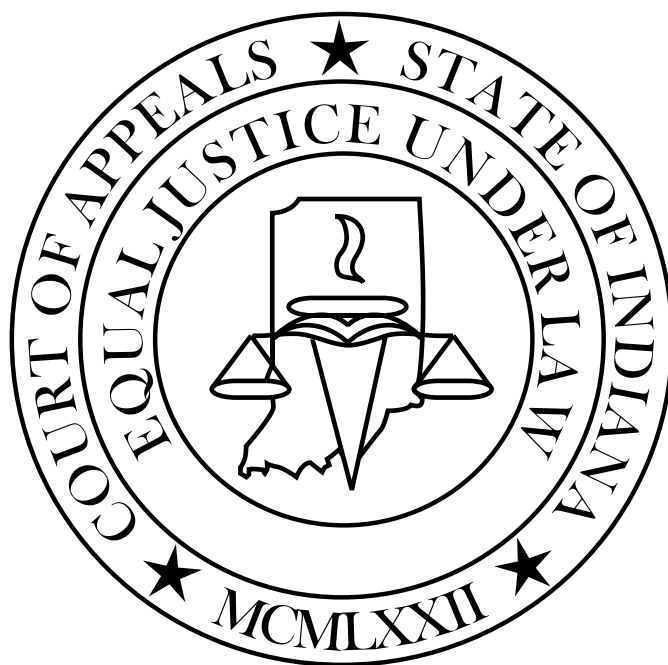


# COURT OF APPEALS OF INDIANA

2 0 1 7   A N N U A L   R E P O R T





# COURT OF APPEALS OF INDIANA

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2 0 1 7   A N N U A L   R E P O R T



# COURT OF APPEALS OF INDIANA

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This report pertaining to the progress of the work of the Court of Appeals of Indiana for the period from January 1, 2017, through December 31, 2017, is being submitted pursuant to paragraph 6.35, Judge's Manual.

*Nancy Harris Vaidik*

Nancy H. Vaidik

CHIEF JUDGE & PRESIDING JUDGE  
FIFTH DISTRICT

*John G. Baker*

John G. Baker  
PRESIDING JUDGE  
FIRST DISTRICT

*James S. Kirsch*

James S. Kirsch  
PRESIDING JUDGE  
SECOND DISTRICT

*Michael P. Barnes*

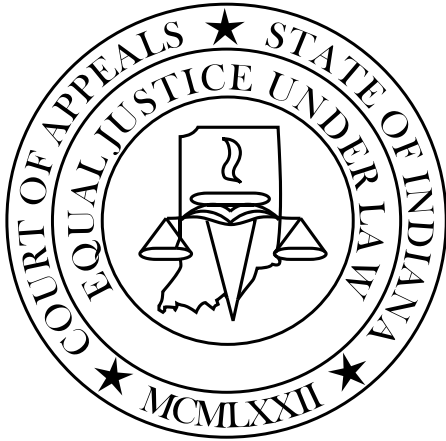
Michael P. Barnes  
PRESIDING JUDGE  
THIRD DISTRICT

*Melissa S. May*

Melissa S. May  
PRESIDING JUDGE  
FOURTH DISTRICT

# COURT OF APPEALS OF INDIANA

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THE MISSION OF THE COURT OF APPEALS OF INDIANA:

To serve all people by providing  
**EQUAL JUSTICE UNDER LAW**

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## FIRST DISTRICT

John G. Baker, Presiding Judge | Edward W. Najam, Jr., Judge | L. Mark Bailey, Judge

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## SECOND DISTRICT

James S. Kirsch, Presiding Judge | Cale J. Bradford, Judge | Robert R. Altice, Jr., Judge

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## THIRD DISTRICT

Michael P. Barnes, Presiding Judge | Paul D. Mathias, Judge | Terry A. Crone, Judge

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## FOURTH DISTRICT

Melissa S. May, Presiding Judge | Patricia A. Riley, Judge | Rudolph R. Pyle, III, Judge

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## FIFTH DISTRICT

Nancy H. Vaidik, Chief Judge | Margret G. Robb, Judge | Elaine B. Brown, Judge

# COURT OF APPEALS OF INDIANA

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## 2 0 1 7   A N N U A L   R E P O R T

The 2017 Annual Report provides statistical information about the work of the Court of Appeals of Indiana from January through December 2017. Every day our hardworking team of judges, senior judges, law clerks, staff attorneys, and administrative staff work together to not only complete the Court's tasks, but also teach fellow Hoosiers about the Court's role in state government. This can be measured in statistics and through examples of the Court's commitment to serve all people by providing equal justice under law.

Last year the Court increased production in several areas. We handed down 2,235 opinions, a 10.04% increase from last year. We received 2,062 new cases, a 3.9% increase from last year. We held 73 oral arguments, 10.6% more than last year. Our Court conducted oral arguments in 27 schools and other venues across the state through our *Appeals on Wheels* program. December 18 marked the 500th *Appeals on Wheels* event since 2000. This program continues to connect students and local communities with the Court and to teach Hoosiers about the state judicial system.

However, numbers tell only part of the story. As I talk to chief judges across the nation, I am amazed at the number of appellate courts in other states that merely issue orders summarily affirming lower court decisions, without benefit of explanation. The Court of Appeals of Indiana, on the other hand, writes full opinions in every case, providing a thorough explanation of the reasoning behind our decision. Just as importantly, we work conscientiously to ensure our opinions are of consistently high quality.

2017 was also a year that saw changes in policy, technology, and personnel.

- A new Social Media Policy was approved by the Court in March. The new policy updated the previous policy and ensures the Court as a workplace keeps pace with changing technology.
- A new phone system was installed that enhanced our ability to communicate with the public and each other, but with no increase in cost.
- New electronic equipment was installed inside the courtroom, including cameras with higher resolution, an improved sound system, a timer, and a television monitor that can run closed-captioning for the hearing impaired. A new monitor was installed outside of the courtroom, displaying information about the Court and upcoming oral arguments.
- The Court purchased much-improved recording equipment for traveling oral arguments.
- Justice Rucker retired from the Supreme Court following a May 8 retirement ceremony, and one week later he returned to our Court as a senior judge.

As the second-highest court in the state, the Court of Appeals of Indiana will continue to take pride in its commitment to constitutional government and the rule of law.

*Nancy Harris Vaidik*

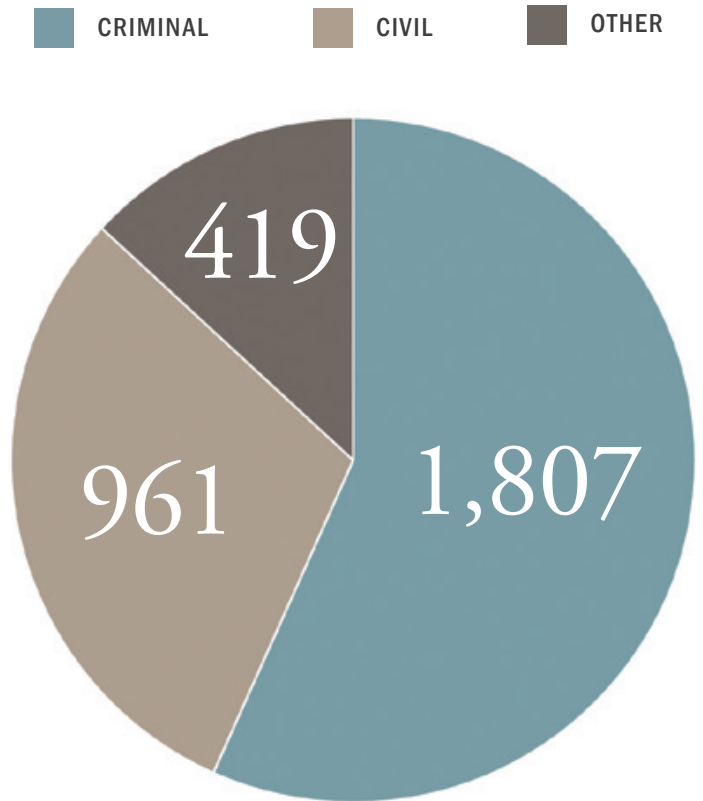
**Nancy H. Vaidik**

CHIEF JUDGE & PRESIDING JUDGE  
FIFTH DISTRICT

# TOTAL CASELOAD\*

YEAR	FILED	DISPOSED
2013	3,931	3,362
2014	3,413	3,383
2015	3,267	2,920
2016	3,136	3,047
2017	3,306	3,187

**TOTAL CASES DISPOSED  
(BY TYPE)**



\*Total caseload is defined by the National Center for State Courts in “Appellate Court Tools” as all appellate cases that have been disposed of in a year. A case is an appellate case when a notice of appeal is filed, when a petition for a permissive interlocutory appeal is filed, or when a petition requesting permission to file a successive petition for post-conviction relief is filed.

## CIVIL AND CRIMINAL CASELOADS

	CRIMINAL		CIVIL		OTHER	
	FILED	DISPOSED	FILED	DISPOSED	FILED	DISPOSED
2013	2,107	1,843	1,134	980	690	539
2014	1,818	1,823	1,049	1,002	546	558
2015	1,838	1,637	1,048	976	381	307
2016	1,757	1,728	979	949	400	370
2017	1,870	1,807	968	961	468	419

# COURT SUMMARY

## AVERAGE AGE OF CASES PENDING

# 1.7 MONTHS

AS OF 12/31/2017

# 1.5 MONTHS

AS OF 12/31/2016

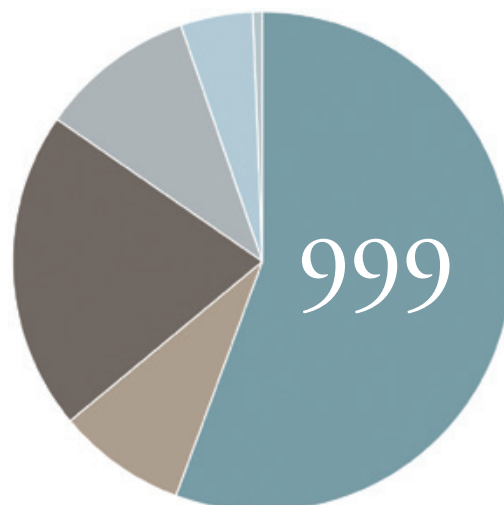
	CRIMINAL	POST - CONVICTION	CIVIL	EXPEDITE	OTHER	TOTAL
Cases Pending 12/31/2016	133	13	95	6	33	280
Cases Fully-Briefed Received	1,131	99	551	26	255	2,062
<i>Geographic District One</i>	325	25	212	0	83	645
<i>Geographic District Two</i>	520	35	193	26	110	884
<i>Geographic District Three</i>	286	39	146	0	62	533
Cases Disposed	1,170	98	567	29	263	2,127
<i>By Majority Opinion</i>	1,168	98	561	29	263	2,119
<i>By Order</i>	2	0	6	0	0	8
Net Increase/Decrease	(39)	1	(16)	(3)	(8)	(65)
Cases Pending 12/31/2017	94	14	79	3	25	215
Cases Affirmed	999	84	371	24	233	1,711
<i>Cases Affirmed Percent</i>	85.5%	85.7%	66.1%	82.8%	88.6%	80.7%
Cases Reversed	150	11	181	5	27	374
<i>Cases Reversed Percent</i>	12.8%	11.2%	32.3%	17.2%	10.3%	17.6%
Cases Remanded	19	3	9	0	3	34
<i>Cases Remanded Percent</i>	1.6%	3.1%	1.6%	0.0%	1.1%	1.6%
Oral Arguments Heard	18	1	51	1	2	73

# 6,841

Total number of Motions

# 7,304

Total number of Orders



## CASES AFFIRMED & REVERSED

- CRIMINAL AFFIRMED - 999
- CRIMINAL REVERSED - 150
- CIVIL AFFIRMED - 371
- CIVIL REVERSED - 181
- POST-CONVICTION AFFIRMED - 84
- POST-CONVICTION REVERSED - 11



## SUMMARY BY JUDGE

JUDGES (DISTRICT)	MAJORITY OPINIONS ISSUED	ALL OPINIONS ISSUED	ORDERS ISSUED	CASES VOTED ON	ORAL ARGUMENTS HEARD	CASES PENDING 12/31/2016	CASES PENDING 12/31/2017
Altice (2nd)	136	141	0	438	24	19	12
Bailey (1st)	136	140	0	410	8	8	5
Baker (1st)	157	176	0	453	25	13	8
Barnes (3rd)	136	143	1	411	11	25	21
Bradford (2nd)	166	178	1	435	17	8	5
Brown (5th)	137	143	1	419	12	24	11
Crone (3rd)	146	153	0	429	14	13	7
Kirsch (2nd)	108	111	2	430	11	23	15
Mathias (3rd)	134	140	0	406	7	24	21
May (4th)	113	119	2	393	19	26	14
Najam (1st)	150	154	1	387	20	9	10
Pyle (4th)	106	109	0	389	12	22	28
Riley (4th)	135	143	0	409	13	14	9
Robb (5th)	130	144	0	444	16	19	16
Vaidik (5th)	110	120	0	383	8	12	10
<b>SENIOR JUDGES</b>						<b>21</b>	<b>23</b>
Barteau	32	33	0	33	0	0	0
Darden	15	15	0	15	1	0	0
Friedlander	27	27	0	27	0	0	0
Rucker	1	1	0	1	0	0	0
Sharpnack	23	24	0	24	1	0	0
Shepard	21	21	0	21	0	0	0
<b>TOTAL</b>	<b>2,119</b>	<b>2,235</b>	<b>8</b>	<b>6,357</b>	<b>219</b>	<b>280</b>	<b>215</b>

# CASELOAD

JUDGES (DISTRICT)	CASES PENDING 1/1/2017	CASES ASSIGNED	INTAKE			DISPOSITIONS			CASES PENDING 12/31/2017
			TRANSFERS			MAJORITY OPINIONS	ORDERS	TOTALS	
			IN	OUT	TOTAL				
Altice (2nd)	19	131	6	8	129	136	0	136	12
Bailey (1st)	8	131	8	6	133	136	0	136	5
Baker (1st)	13	129	28	5	152	157	0	157	8
Barnes (3rd)	25	132	6	5	133	136	1	137	21
Bradford (2nd)	8	128	36	0	164	166	1	167	5
Brown (5th)	24	127	3	5	125	137	1	138	11
Crone (3rd)	13	130	13	3	140	146	0	146	7
Kirsch (2nd)	23	129	4	31	102	108	2	110	15
Mathias (3rd)	24	135	5	9	131	134	0	134	21
May (4th)	26	132	2	31	103	113	2	115	14
Najam (1st)	9	131	24	3	152	150	1	151	10
Pyle (4th)	22	129	1	18	112	106	0	106	28
Riley (4th)	14	129	4	3	130	135	0	135	9
Robb (5th)	19	130	4	7	127	130	0	130	16
Vaidik (5th)*	12	109	3	4	108	110	0	110	10
<b>SENIOR JUDGES</b>	<b>21</b>	<b>130</b>	<b>0</b>	<b>9</b>	<b>121</b>	<b>(119)</b>	<b>(0)</b>	<b>(119)</b>	<b>23</b>
Barteau	0	0	0	0	0	32	0	32	0
Darden	0	0	0	0	0	15	0	15	0
Friedlander	0	0	0	0	0	27	0	27	0
Rucker	0	0	0	0	0	1	0	1	0
Sharpnack	0	0	0	0	0	23	0	23	0
Shepard	0	0	0	0	0	21	0	21	0
<b>TOTAL</b>	<b>280</b>	<b>2,062</b>	<b>147</b>	<b>147</b>	<b>2,062</b>	<b>2,119</b>	<b>8</b>	<b>2,127</b>	<b>215</b>

\*By Court policy, the Chief Judge's case load is 80% of that of other judges, to accommodate the time needed for administrative tasks.

# OPINIONS ISSUED

## PORTION OF ISSUED OPINIONS THAT ARE MAJORITY OPINIONS

TOTAL ISSUED MAJORITY OPINIONS - 2,119

TOTAL ISSUED OPINIONS - 2,235

JUDGES (DISTRICT)	MAJORITY OPINIONS			CONCURRING OPINIONS	DISSENTING OPINIONS	REHEARING OPINIONS	OTHER OPINIONS	TOTAL OPINIONS
	ISSUED	PUBLISHED	PERCENT PUBLISHED					
Altice (2nd)	136	19	14.0%	2	1	2	0	141
Bailey (1st)	136	28	20.6%	0	4	0	0	140
Baker (1st)	157	43	27.4%	5	10	4	0	176
Barnes (3rd)	136	28	20.6%	2	4	1	0	143
Bradford (2nd)	166	21	12.7%	1	7	4	0	178
Brown (5th)	137	33	24.1%	1	3	2	0	143
Crone (3rd)	146	23	15.8%	3	3	0	1	153
Kirsch (2nd)	108	14	13.0%	1	2	0	0	111
Mathias (3rd)	134	28	20.9%	2	3	1	0	140
May (4th)	113	31	27.4%	0	3	3	0	119
Najam (1st)	150	45	30.0%	0	2	2	0	154
Pyle (4th)	106	30	28.3%	0	3	0	0	109
Riley (4th)	135	32	23.7%	4	3	1	0	143
Robb (5th)	130	23	17.7%	6	6	2	0	144
Vaidik (5th)	110	21	19.1%	3	7	0	0	120

### SENIOR JUDGES

Barreau	32	7	21.9%	0	1	0	0	33
Darden	15	1	6.7%	0	0	0	0	15
Friedlander	27	2	7.4%	0	0	0	0	27
Rucker	1	1	100.0%	0	0	0	0	1
Sharpnack	23	12	52.2%	0	0	1	0	24
Shepard	21	6	28.6%	0	0	0	0	21
<b>TOTAL</b>	<b>2,119</b>	<b>448</b>	<b>21.1%</b>	<b>30</b>	<b>62</b>	<b>23</b>	<b>1</b>	<b>2,235</b>

# CASES HANDED DOWN

JUDGES (DISTRICT)	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	75	165	6	10	38	87
Bailey (1st)	72	151	6	12	37	75
Baker (1st)	78	173	7	12	50	72
Barnes (3rd)	79	148	1	15	34	78
Bradford (2nd)	90	154	6	9	50	63
Brown (5th)	74	158	6	11	29	80
Crone (3rd)	76	158	7	12	43	75
Kirsch (2nd)	62	177	6	14	27	87
Mathias (3rd)	69	149	10	19	34	67
May (4th)	68	148	5	14	19	73
Najam (1st)	76	130	12	10	42	63
Pyle (4th)	64	145	2	24	26	70
Riley (4th)	75	153	5	14	39	76
Robb (5th)	65	182	11	7	38	86
Vaidik (5th)	63	145	4	13	28	69
<b>TOTAL</b>	<b>1,086</b>	<b>2,336</b>	<b>94</b>	<b>196</b>	<b>534</b>	<b>1,121</b>

JUDGES (DISTRICT)	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	2	6	15	34	136	302
Bailey (1st)	2	3	19	33	136	274
Baker (1st)	2	2	20	37	157	296
Barnes (3rd)	2	3	20	31	136	275
Bradford (2nd)	4	4	16	39	166	269
Brown (5th)	2	4	26	29	137	282
Crone (3rd)	3	5	17	33	146	283
Kirsch (2nd)	1	5	12	39	108	322
Mathias (3rd)	2	3	19	34	134	272
May (4th)	1	5	20	40	113	280
Najam (1st)	2	4	18	30	150	237
Pyle (4th)	2	3	12	41	106	283
Riley (4th)	2	3	14	28	135	274
Robb (5th)	1	4	15	35	130	314
Vaidik (5th)	1	4	14	42	110	273
<b>TOTAL</b>	<b>29</b>	<b>58</b>	<b>257</b>	<b>525</b>	<b>2,000</b>	<b>4,236</b>

# CASES HANDED DOWN

## SENIOR JUDGES

SENIOR JUDGES	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barteau	29	0	1	0	1	0
Darden	11	0	1	0	1	0
Friedlander	16	0	2	0	8	0
Rucker	1	0	0	0	0	0
Sharpnack	15	0	0	0	7	1
Shepard	10	0	0	0	10	0
<b>TOTAL</b>	<b>82</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>27</b>	<b>1</b>

SENIOR JUDGES	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barteau	0	0	1	1	32	1
Darden	0	0	2	0	15	0
Friedlander	0	0	1	0	27	0
Rucker	0	0	0	0	1	0
Sharpnack	0	0	1	0	23	1
Shepard	0	0	1	0	21	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>1</b>	<b>119</b>	<b>2</b>

The Court of Appeals handed down 2,119 written decisions in 2017.



# ORAL ARGUMENTS

JUDGES (DISTRICT)	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	0	8	0	0	5	9
Bailey (1st)	1	0	0	0	0	7
Baker (1st)	4	6	0	0	8	6
Barnes (3rd)	0	4	0	0	0	7
Bradford (2nd)	0	3	0	0	3	10
Brown (5th)	0	0	0	1	2	8
Crone (3rd)	1	4	0	0	1	8
Kirsch (2nd)	1	4	0	0	2	4
Mathias (3rd)	4	0	0	0	1	2
May (4th)	4	0	1	0	5	8
Najam (1st)	0	1	0	0	6	12
Pyle (4th)	0	1	0	1	1	7
Riley (4th)	0	1	0	0	7	5
Robb (5th)	2	3	0	0	4	7
Vaidik (5th)	1	1	0	0	4	2
<b>TOTAL</b>	<b>18</b>	<b>36</b>	<b>1</b>	<b>2</b>	<b>49</b>	<b>102</b>

JUDGES (DISTRICT)	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	0	1	0	1	5	19
Bailey (1st)	0	0	0	0	1	7
Baker (1st)	0	0	1	0	13	12
Barnes (3rd)	0	0	0	0	0	11
Bradford (2nd)	0	1	0	0	3	14
Brown (5th)	0	0	0	1	2	10
Crone (3rd)	0	0	0	0	2	12
Kirsch (2nd)	0	0	0	0	3	8
Mathias (3rd)	0	0	0	0	5	2
May (4th)	0	0	1	0	11	8
Najam (1st)	0	0	0	1	6	14
Pyle (4th)	1	0	0	1	2	10
Riley (4th)	0	0	0	0	7	6
Robb (5th)	0	0	0	0	6	10
Vaidik (5th)	0	0	0	0	5	3
<b>TOTAL</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>4</b>	<b>71</b>	<b>146</b>



## ORAL ARGUMENTS

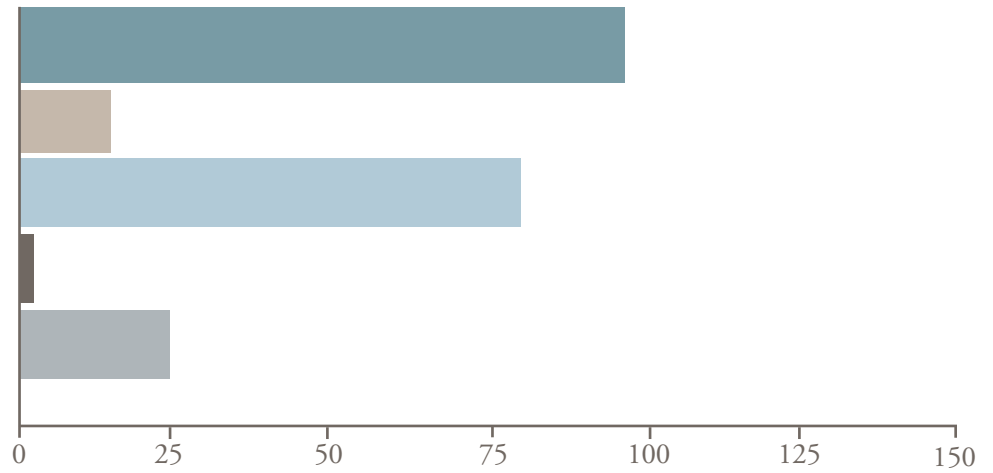
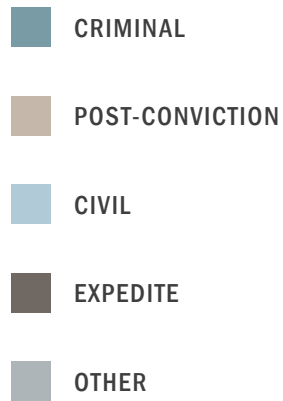
### SENIOR JUDGES

SENIOR JUDGES	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barteau	0	0	0	0	0	0
Darden	0	0	0	0	1	0
Friedlander	0	0	0	0	0	0
Rucker	0	0	0	0	0	0
Sharpnack	0	0	0	0	1	0
Shepard	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>

SENIOR JUDGES	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barteau	0	0	0	0	0	0
Darden	0	0	0	0	1	0
Friedlander	0	0	0	0	0	0
Rucker	0	0	0	0	0	0
Sharpnack	0	0	0	0	1	0
Shepard	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>

# CASES PENDING

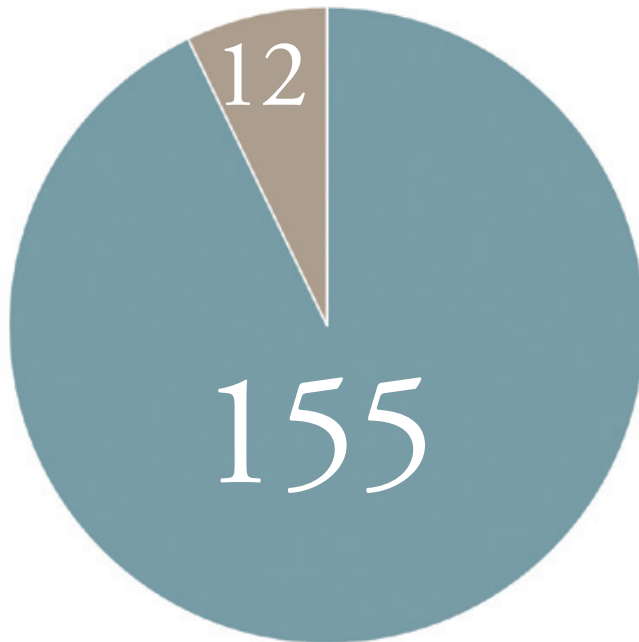
## TOTAL CASES PENDING (PER TYPE)



JUDGES (DISTRICT)	CRIMINAL	POST - CONVICTION	CIVIL	EXPEDITE	OTHER	TOTAL
Altice (2nd)	6	0	4	0	2	12
Bailey (1st)	2	1	2	0	0	5
Baker (1st)	3	1	2	0	2	8
Barnes (3rd)	11	0	6	0	4	21
Bradford (2nd)	3	0	1	0	1	5
Brown (5th)	4	1	5	0	1	11
Crone (3rd)	3	0	2	0	2	7
Kirsch (2nd)	6	2	5	1	1	15
Mathias (3rd)	8	3	9	0	1	21
May (4th)	5	0	6	1	2	14
Najam (1st)	3	0	4	0	3	10
Pyle (4th)	10	4	12	0	2	28
Riley (4th)	4	0	4	0	1	9
Robb (5th)	9	1	5	0	1	16
Vaidik (5th)	4	0	4	0	2	10
<b>SENIOR JUDGES</b>	<b>13</b>	<b>1</b>	<b>8</b>	<b>1</b>	<b>0</b>	<b>23</b>
<b>TOTAL</b>	<b>94</b>	<b>14</b>	<b>79</b>	<b>3</b>	<b>25</b>	<b>215</b>



## SUCCESSIVE PETITIONS FOR POST-CONVICTION RELIEF



12

Pending as of 12/31/2016

155

Petitions filed

167

Total petitions

## AUTHORIZATION

14

Petitions authorized to be filed in trial court for hearing

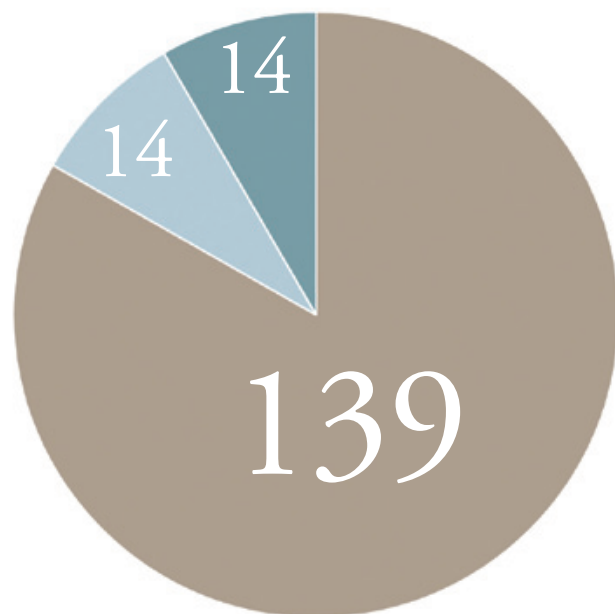
139

Petitions not authorized to be filed in trial court for hearing (“No Merit”)

14

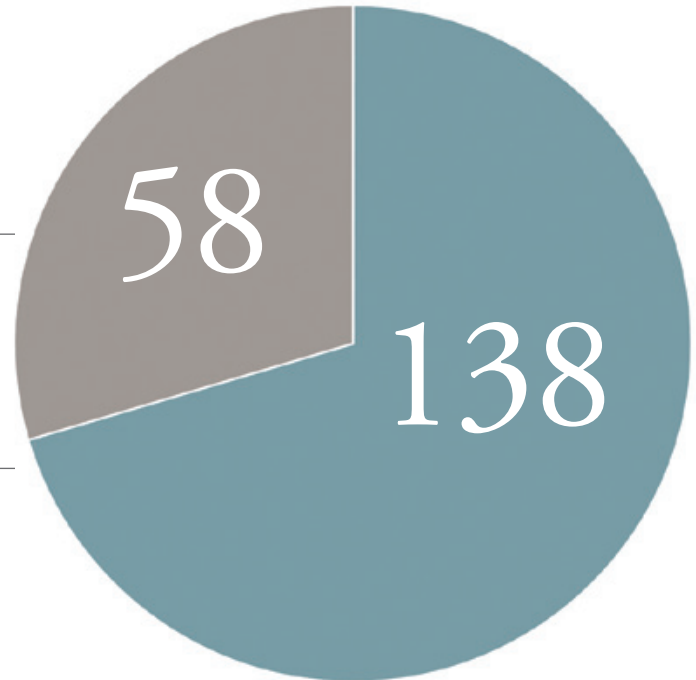
Petitions pending

167 Total petitions



## APPELLEE'S MOTIONS TO DISMISS

MOTIONS TO DISMISS GRANTED	MOTION TO DISMISS DENIED
138	58
PER CURIAM OPINIONS	TOTAL DISPOSITIONS
0	196



**24** Pending motions as of 12/31/2017

# STATISTICS REGARDING DISPOSITION OF CHIEF JUDGE MATTERS

**6,841** Motions, Petitions for Time, Misc. Motions Received

## JANUARY 1, 2017 - DECEMBER 31, 2017

Orders Granting Petitions to File Belated Notice of Appeal	36
Orders Denying Petitions to File Belated Notice of Appeal	18
Orders Granting Pre-Appeal Conferences	0
Orders Denying Pre-Appeal Conferences	2
Orders with Instructions from Pre-Appeal Conference	0
Orders Granting Permissive Interlocutory Appeals	65
Orders Denying Permissive Interlocutory Appeals	115
Orders Granting Successive Petitions for Post-Conviction Relief	14
Orders Denying Successive Petitions for Post-Conviction Relief	139
Orders Granting Consolidations of Appeals	58
Orders Denying Consolidations of Appeals	6
Orders Granting Petitions to Amend Brief	111
Orders Denying Petitions to Amend Brief	10
Orders Granting Withdrawals of Record	268
Orders Denying Withdrawals of Record	45
Miscellaneous Orders	3,322

## REHEARINGS

Petitions for Rehearing Granted without Opinion	0
Petitions for Rehearing Denied without Opinion	176
Petitions for Rehearing Granted with Opinion	23
Petitions for Rehearing Denied with Opinion	0

## TIME GRANTS

Petitions for Time to File Record Granted	251
Petitions for Time to File Record Denied	8
Petitions for Time to File Appellant's Brief Granted	996
Petitions for Time to File Appellant's Brief Denied	45
Petitions for Time to File Appellee's Brief Granted	391
Petitions for Time to File Appellee's Brief Denied	7
Petitions for Time to File Appellant's Reply Brief Granted	129
Petitions for Time to File Appellant's Reply Brief Denied	3

## ORAL ARGUMENT ACTION

Orders Setting Oral Arguments	108
Orders Denying Petitions for Oral Arguments	70

## DISMISSALS

Orders Granting Appellant's Motions to Dismiss	235
Orders Denying Appellant's Motions to Dismiss	21
Orders Granting Appellee's Motions to Dismiss	138
Orders Denying Appellee's Motions to Dismiss	58
Court-Directed Orders of Dismissal	436

**7,304** TOTAL



# COURT OF APPEALS OF INDIANA

2 0 1 7   A N N U A L   R E P O R T

This report pertaining to the progress of the work of the Court of Appeals of Indiana for the period from January 1, 2017, through December 31, 2017, is being submitted pursuant to paragraph 6.35, Judge's Manual.

Information about the Court of Appeals of Indiana and the Indiana Judicial Branch can be found online at:

[courts.in.gov/appeals](http://courts.in.gov/appeals)

THE MISSION OF THE COURT OF APPEALS OF INDIANA:  
**To serve all people by providing equal justice under law**